

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION                      MDL No. 2804  
OPIATE LITIGATION                                      Case No. 17-md-2804

This document relates to:                      Judge Dan  
   Aaron Polster

The County of Cuyahoga v. Purdue  
Pharma, L.P., et al.  
Case No. 17-OP-45005  
City of Cleveland, Ohio vs. Purdue  
Pharma, L.P., et al.  
Case No. 18-OP-45132  
The County of Summit, Ohio,  
et al. v. Purdue Pharma, L.P.,  
et al.  
Case No. 18-OP-45090

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Videotaped Deposition of Thomas Gilson, M.D.

Cleveland, Ohio

January 22, 2019

9:13 a.m.

Reported by: Bonnie L. Russo  
Job No. 3196188

<p style="text-align: right;">Page 2</p> <p>1 Videotaped Deposition of Thomas Gilson held at:</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 Climaco Wilcox Peca Tarantino &amp; Garofoli, LPA</p> <p>9 55 Public Square</p> <p>10 Suite 1950</p> <p>11 Cleveland, Ohio 44113</p> <p>12</p> <p>13</p> <p>14 Pursuant to Notice, when were present on behalf</p> <p>15 of the respective parties:</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (CONTINUED):</p> <p>2 On behalf of Johnson &amp; Johnson and Janssen</p> <p>3 Pharmaceuticals, Inc</p> <p>4 ERICA M JAMES, ESQ</p> <p>5 TUCKER ELLIS, LLP</p> <p>6 950 Main Avenue</p> <p>7 Suite 1100</p> <p>8 Cleveland, Ohio 44113</p> <p>9 216-592-5000</p> <p>10 erica.james@tuckerellis.com</p> <p>11 On behalf of Walmart, Inc</p> <p>12 EDWARD M CARTER, ESQ</p> <p>13 JONES DAY</p> <p>14 325 John H McConnell Boulevard</p> <p>15 Suite 600</p> <p>16 Cleveland, Ohio 43215</p> <p>17 614-281-3906</p> <p>18 emcarter@jonesday.com</p> <p>19</p> <p>20 On behalf of Endo Pharmaceuticals, Inc , Endo</p> <p>21 Health Solutions, Inc , Par Pharmaceuticals,</p> <p>22 Inc and Par Pharmaceutical Companies, Inc :</p> <p>23 RUTH HARTMAN, ESQ</p> <p>24 BAKER HOSTETLER</p> <p>25 Key Tower, 127 Public Square</p> <p>Cleveland, Ohio 44114</p> <p>216-621-0200</p> <p>rhartman@bakerlaw.com</p> <p>On behalf of AmerisourceBergen Drug</p> <p>Corporation:</p> <p>STEVEN J BORANIAN, ESQ</p> <p>LUKE PORTER, ESQ</p> <p>(Via Teleconference)</p> <p>REED SMITH, LLP</p> <p>101 Second Street, Suite 1800</p> <p>San Francisco, CA 94105</p> <p>415-659-5980</p> <p>sboranian@reedsmith.com</p> <p>-and-</p> <p>SANDRA K ZERRUSEN, ESQ</p> <p>JACKSON KELLY, PLLC</p> <p>50 South Main Street, Suite 201</p> <p>Akron, Ohio 44308</p> <p>330-252-9060</p> <p>skzerrusen@jacksonkelly.com</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of Cuyahoga County:</p> <p>4 SALVATORE C BADALA, ESQ</p> <p>5 NAPOLI SHKOLNIK, PLLC</p> <p>6 400 Broadhollow Road, Suite 305</p> <p>7 Melville, New York 11747</p> <p>8 631-224-1133</p> <p>9 sbadala@napolilaw.com</p> <p>10 -and-</p> <p>11 MARIA FLEMING, ESQ</p> <p>12 NAPOLI SHKOLNIK, PLLC</p> <p>13 600 Superior Avenue East, Suite 1300</p> <p>14 Cleveland, Ohio 44114</p> <p>15 212-397-1000</p> <p>16 mfleming@napolilaw.com</p> <p>17 -and-</p> <p>18 HUNTER SHKOLNIK, ESQ</p> <p>19 (Via Teleconference)</p> <p>20 NAPOLI SHKOLNIK, PLLC</p> <p>21 270 Munoz Rivera Avenue, Suite 201</p> <p>22 Hato Rey, Puerto Rico 00918</p> <p>23 212-397-1000</p> <p>24 hunter@napolilaw.com</p> <p>25</p> <p>On behalf of Purdue Pharma, L P</p> <p>MARK CHEFFO, ESQ</p> <p>DECHERT, LLP</p> <p>Three Bryant Park</p> <p>1095 Avenue of the Americas</p> <p>New York, New York 10036</p> <p>212-698-3814</p> <p>mark.cheffo@dechert.com</p> <p>-and-</p> <p>LINDSEY COHAN, ESQ</p> <p>DECHERT, LLP</p> <p>300 W 6th Street, Suite 2010</p> <p>Austin, Texas 78701</p> <p>512-394-3000</p> <p>lindsey.cohan@dechert.com</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES (CONTINUED):</p> <p>2</p> <p>3 On behalf of McKesson Corporation:</p> <p>4 ANNA Q. HAN, ESQ.</p> <p>5 (Via Teleconference)</p> <p>6 COVINGTON &amp; BURLING, LLP</p> <p>7 One CityCenter</p> <p>8 850 Tenth Street, N.W.</p> <p>9 Washington, D.C. 20001</p> <p>202-662-6000</p> <p>ahan@cov.com</p> <p>Also Present:</p> <p>Daniel Russo, Videographer</p>

<p style="text-align: right;">Page 6</p> <p>1                   C O N T E N T S</p> <p>2   EXAMINATION OF THOMAS GILSON                   PAGE</p> <p>3   BY MR. CHEFFO                                   10</p> <p>4   BY MR. BORANIAN                               328</p> <p>5   BY MR. CARTER                                  373</p> <p>6   BY MR. BADALA                                  413</p> <p>7   BY MS. HARTMAN                                418</p> <p>8</p> <p>9</p> <p>10                  E X H I B I T S</p> <p>11   Exhibit 1   Medical Examiner's Office    97</p> <p>                  Heroin Related Deaths</p> <p>                  in Cuyahoga County</p> <p>12   Exhibit 2   E-Mail Chain                   215</p> <p>                  dated 7-11-13</p> <p>13                CUYAH_001710246-0247</p> <p>14   Exhibit 3   Article entitled               253</p> <p>                  "Associations of Nonmedical</p> <p>15                Pain Reliever Use and</p> <p>                  Initiation of Heroin Use</p> <p>16                in the United States"</p> <p>                  PPLP004153119-53135</p> <p>17</p> <p>18   Exhibit 4   E-Mail Chain                   269</p> <p>                  dated 10-9-17</p> <p>19                CUYAH_001670519-0520</p> <p>20</p> <p>21   Exhibit 5   Spreadsheets                   340</p> <p>22   Exhibit 6   Medical Examiner's Office   349</p> <p>                  Heroin/Fentanyl/Cocaine</p> <p>                  Related Deaths in</p> <p>23                Cuyahoga County</p> <p>                  2018 December Update</p> <p>24                1-11-18</p> <p>25   (Exhibits included with transcript )</p>	<p style="text-align: right;">Page 8</p> <p>1   firm of Veritext Legal Solutions, and I'm your</p> <p>2   videographer today. The court reporter is</p> <p>3   Bonnie Russo from the firm Veritext Legal</p> <p>4   Solutions.</p> <p>5                Counsel and all present in the room</p> <p>6   and everyone attending remotely will now state</p> <p>7   their appearances and affiliations for the</p> <p>8   record, please.</p> <p>9                MR. BADALA: Salvatore Badala for</p> <p>10   the Plaintiff Cuyahoga County.</p> <p>11               MS. FLEMMING: Maria Flemming for</p> <p>12   the Plaintiff Cuyahoga County.</p> <p>13               MS. JAMES: Erica James, Tucker</p> <p>14   Ellis, on behalf of Janssen Pharmaceuticals and</p> <p>15   Johnson &amp; Johnson.</p> <p>16               MS. HARTMAN: Ruth Hartman, Baker</p> <p>17   Hostetler, on behalf of the Endo defendants.</p> <p>18               MR. CARTER: Ed Carter for WalMart.</p> <p>19               MS. ZERRUSEN: Sandy Zerrusen,</p> <p>20   Jackson Kelly, on behalf of AmerisourceBergen.</p> <p>21               MR. BORANIAN: Steven Boranian from</p> <p>22   Reed Smith for Defendant AmerisourceBergen.</p> <p>23               MS. COHAN: Lindsey Cohan from</p> <p>24   Dechert, LLP, for the Purdue Defendants.</p> <p>25               MR. CHEFFO: And Mark Cheffo, also</p>
<p style="text-align: right;">Page 7</p> <p>1                   P R O C E E D I N G S</p> <p>2</p> <p>3                THE VIDEOGRAPHER: Good morning.</p> <p>4                We are going on the record at 9:13</p> <p>5                a m. on January 22nd, 2019.</p> <p>6                Please note that the microphones are</p> <p>7                sensitive and may pick up whispering, private</p> <p>8                conversations and cellular interference.</p> <p>9                Please turn off all cell phones or place them</p> <p>10              away from the microphones as they can interfere</p> <p>11              with the deposition audio. Audio and video</p> <p>12              recording will continue to take place unless</p> <p>13              all parties agree to go off the record.</p> <p>14              This is Media Unit 1 of the video</p> <p>15              recorded deposition of Dr. Tom -- Thomas</p> <p>16              Gilson, taken by counsel for the defendant, in</p> <p>17              the matter of In Re National Prescription</p> <p>18              Opiate Litigation filed in United States</p> <p>19              District Court for the Northern Division of</p> <p>20              Ohio, Eastern Division, case No. 17-MD-2804.</p> <p>21              This deposition is being held at</p> <p>22              Climaco Wilcox, Peca, Tarantino &amp; Garofoli,</p> <p>23              LPA, located at 55 Public Square, Suite 1950,</p> <p>24              Cleveland, Ohio.</p> <p>25              My name is Daniel Russo from the</p>	<p style="text-align: right;">Page 9</p> <p>1   for Dechert, for Purdue.</p> <p>2                THE VIDEOGRAPHER: Can the people</p> <p>3   remotely please state their appearances as</p> <p>4   well.</p> <p>5                MS. HAN: Anna Han from Covington &amp;</p> <p>6   Burling for McKesson Corporation.</p> <p>7                MR. PORTER: Luke Porter with Reed</p> <p>8   Smith on behalf of AmerisourceBergen.</p> <p>9                THE VIDEOGRAPHER: Will the court</p> <p>10   reporter please swear in the witness.</p> <p>11</p> <p>12               THOMAS GILSON,</p> <p>13   being first duly sworn, to tell the truth, the</p> <p>14   whole truth and nothing but the truth,</p> <p>15   testified as follows:</p> <p>16               THE VIDEOGRAPHER: You may proceed,</p> <p>17   Counsel.</p> <p>18               MR. CHEFFO: Thank you.</p> <p>19               MR. BADALA: Sorry. Before you</p> <p>20   begin, we just --</p> <p>21               MR. CHEFFO: Sure.</p> <p>22               MR. BADALA: -- have a standing</p> <p>23   objection to Carole Rendon being involved in</p> <p>24   the litigation as well as the involvement of</p> <p>25   Baker Hostetler.</p>

<p style="text-align: right;">Page 10</p> <p>1 MS. HARTMAN: And in response, the</p> <p>2 Endo defendants think they would suffer</p> <p>3 prejudice if they weren't allowed to be in the</p> <p>4 deposition.</p> <p>5 EXAMINATION BY COUNSEL FOR DEFENDANT PURDUE</p> <p>6 PHARMA, L.P.</p> <p>7 BY MR. CHEFFO:</p> <p>8 Q. Okay. Good morning, Dr. Gilson.</p> <p>9 A. Morning, sir.</p> <p>10 Q. You understand you're under oath</p> <p>11 today?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Is there any reason why you can't</p> <p>14 testify fully and accurately here today?</p> <p>15 A. No.</p> <p>16 Q. Can you please state your full name</p> <p>17 and your -- your professional title.</p> <p>18 A. Yes. My name is Dr. Thomas Gilson.</p> <p>19 I am the Cuyahoga County medical examiner and</p> <p>20 director of the crime laboratory for Cuyahoga</p> <p>21 County.</p> <p>22 Q. And how long have you held those</p> <p>23 positions?</p> <p>24 A. Since 2011.</p> <p>25 Q. And have your duties and</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Is that the -- the typical kind of</p> <p>2 hierarchy, the dep -- whoever serves as the</p> <p>3 deputy chief of staff serves as your</p> <p>4 supervisor?</p> <p>5 A. Yes. There's a deputy chief of</p> <p>6 staff, then the chief of staff, then the</p> <p>7 executive. That's the chain of command over</p> <p>8 the medical examiner.</p> <p>9 Q. And does the deputy chief of staff,</p> <p>10 whoever sits in that chair, does he or she</p> <p>11 provide any type of evaluation or performance</p> <p>12 review for you?</p> <p>13 A. They have at different times but not</p> <p>14 recently.</p> <p>15 Q. When was the last time?</p> <p>16 A. I don't remember.</p> <p>17 Q. Was it in the last two years?</p> <p>18 A. I don't believe so.</p> <p>19 Q. How many times have you had a</p> <p>20 performance review?</p> <p>21 A. I don't remember the exact number.</p> <p>22 Q. Is it more than one?</p> <p>23 A. I don't remember.</p> <p>24 Q. Well, are they annual reviews?</p> <p>25 A. Obviously not, I guess. So the --</p>
<p style="text-align: right;">Page 11</p> <p>1 responsibilities been substantially the same</p> <p>2 since 2011?</p> <p>3 A. Yes, they have.</p> <p>4 Q. Okay. And who is your employer?</p> <p>5 A. Cuyahoga County.</p> <p>6 Q. And who is your supervisor?</p> <p>7 A. Brandy Carney is the deputy chief of</p> <p>8 staff for the safety units, which would include</p> <p>9 the medical examiner's office.</p> <p>10 Q. And that's Ms. Carney?</p> <p>11 A. Ms. Carney, yes.</p> <p>12 Q. Ms. Carney is -- strike that.</p> <p>13 How long has Ms. Carney been your</p> <p>14 supervisor?</p> <p>15 A. I don't remember. She was appointed</p> <p>16 sometime I believe in 2018.</p> <p>17 Q. Who was your supervisor prior to</p> <p>18 Ms. Carney?</p> <p>19 A. Frank Bova, B-O-V-A.</p> <p>20 Q. And was he your supervisor from 2011</p> <p>21 to 2018, or was there someone in between?</p> <p>22 A. I think he was the chief of staff</p> <p>23 when I came for safety. Oh, Noberta Collogne</p> <p>24 was the deputy chief of safety for safety</p> <p>25 before Frank Bova.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Are they supposed to be annual?</p> <p>2 A. That's an HR function. I haven't</p> <p>3 had an annual review.</p> <p>4 Q. Is it less than ten?</p> <p>5 A. I have worked here since 2011. I've</p> <p>6 had at least one. So has to be less than ten.</p> <p>7 I don't remember how many reviews there</p> <p>8 actually were though.</p> <p>9 Q. You don't remember your reviews for</p> <p>10 the last six or seven years; you only remember</p> <p>11 one?</p> <p>12 A. I remember one very clearly. But I</p> <p>13 -- it was right as I came on board. There may</p> <p>14 have been another one after that. But the last</p> <p>15 couple of years I know we've not had a -- an --</p> <p>16 a year-end review.</p> <p>17 Q. Can you remember more than two?</p> <p>18 A. I don't, sir.</p> <p>19 Q. So is that your best testimony that</p> <p>20 you believe you have -- you've had two</p> <p>21 performance reviews in the last seven or eight</p> <p>22 years?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 THE WITNESS: Well, I get</p> <p>25 performance reviews by feedback from staff.</p>

<p style="text-align: right;">Page 14</p> <p>1 The written annual review that you mention --</p> <p>2 or if that's what I understand your question to</p> <p>3 be -- I don't remember the exact number, sir.</p> <p>4 I know there was at least one, I think two.</p> <p>5 BY MR. CHEFFO:</p> <p>6 Q. And you can't remember any more than</p> <p>7 two?</p> <p>8 A. Not as I sit here today, no.</p> <p>9 Q. And -- and with the two that you</p> <p>10 remember, did you actually get paper -- some</p> <p>11 type of actual written summary or -- or</p> <p>12 evaluation that was an adjunct to a formal</p> <p>13 in-person evaluation?</p> <p>14 A. With one of the year-end reviews I</p> <p>15 did get a piece of paper summarizing that. And</p> <p>16 the other informal reviews I don't have any</p> <p>17 paper with it, and I don't remember if they</p> <p>18 were annual or if they were just things that</p> <p>19 were going on in the course of business that I</p> <p>20 would get feedback from my supervisor.</p> <p>21 Q. Have you ever asked for a -- a</p> <p>22 formal evaluation, other than the one time you</p> <p>23 got one?</p> <p>24 A. No, sir.</p> <p>25 Q. Do you review your team on an annual</p>	<p style="text-align: right;">Page 16</p> <p>1 you do them on an annual basis with frequency?</p> <p>2 A. Yes, I did.</p> <p>3 Q. And did you ever ask HR why they</p> <p>4 didn't give you the framework so you could</p> <p>5 review your people formally?</p> <p>6 A. I believe I have asked whether we</p> <p>7 would be doing annual reviews. And I don't</p> <p>8 really know what the answer was to that, other</p> <p>9 than it wasn't going to be done for those two</p> <p>10 years.</p> <p>11 Q. Who'd you ask?</p> <p>12 A. I don't remember.</p> <p>13 Q. Is there an HR person within your</p> <p>14 department, or do you rely on an HR person</p> <p>15 that's outside the department?</p> <p>16 A. Both. We have a liaison to our</p> <p>17 office. And then obviously there's HR</p> <p>18 personnel who are more centrally based in the</p> <p>19 county.</p> <p>20 Q. And who'd you ask?</p> <p>21 A. I don't remember, sir.</p> <p>22 Q. There's somebody physically in your</p> <p>23 building who's an HR person?</p> <p>24 A. Yes.</p> <p>25 Q. Did you ask him or her?</p>
<p style="text-align: right;">Page 15</p> <p>1 basis?</p> <p>2 A. I have. As I say our HR -- our</p> <p>3 human resource department hasn't given us the</p> <p>4 guidance on that recently. So for the last two</p> <p>5 years, I believe we have not done that.</p> <p>6 Q. Meaning you haven't reviewed any of</p> <p>7 your people for the last two years?</p> <p>8 A. Not in the setting as I understand</p> <p>9 what you're asking me. I review all my people</p> <p>10 pretty much top to bottom very frequently</p> <p>11 actually.</p> <p>12 Q. Yeah. I'm talking about a formal --</p> <p>13 MR. BADALA: You understand --</p> <p>14 THE WITNESS: Formal written review?</p> <p>15 MR. CHEFFO: Right.</p> <p>16 THE WITNESS: No, I have not done</p> <p>17 that.</p> <p>18 BY MR. CHEFFO:</p> <p>19 Q. And that's because HR didn't tell</p> <p>20 you that you needed to?</p> <p>21 A. They didn't give us a framework to</p> <p>22 operate in for a review. So I've done what, as</p> <p>23 I say, is a more informal review. And I do</p> <p>24 those frequently.</p> <p>25 Q. And prior to the last two years, did</p>	<p style="text-align: right;">Page 17</p> <p>1 A. I believe I did. But I -- I -- I</p> <p>2 want to be certain. But the person has changed</p> <p>3 some. So I originally had a person Radine</p> <p>4 Brown, who got promoted. And I would</p> <p>5 frequently interact with her but still have a</p> <p>6 different liaison in the building.</p> <p>7 And my current person is Lynn</p> <p>8 Ferraro. And I -- I -- I believe I spoke with</p> <p>9 her about whether we would be doing reviews</p> <p>10 through an HR framework. I may have spoken to</p> <p>11 Radine though.</p> <p>12 Q. Do you think reviews are a good</p> <p>13 idea?</p> <p>14 MR. BADALA: Objection to form.</p> <p>15 THE WITNESS: Yes, I do.</p> <p>16 BY MR. CHEFFO:</p> <p>17 Q. And when do you believe you will</p> <p>18 review the people who work in your department?</p> <p>19 A. As I say, I review those people</p> <p>20 constantly.</p> <p>21 Q. I think --</p> <p>22 A. The formal review process I think is</p> <p>23 a good -- good thing too. But it's not that</p> <p>24 they're going unreviewed. I certainly wouldn't</p> <p>25 say that at all.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. Do you remember my question?</p> <p>2 A. I thought I answered your question,</p> <p>3 sir.</p> <p>4 Q. Do you remember what it was?</p> <p>5 A. Do you think reviews are a good</p> <p>6 idea.</p> <p>7 Q. No.</p> <p>8 I said when -- when do you expect to</p> <p>9 review your people?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 THE WITNESS: I don't have a</p> <p>12 specific time framework for that. I have four</p> <p>13 direct reports. I see them on a weekly basis</p> <p>14 and provide feedback to them. I walk the</p> <p>15 office at least once to twice a week and talk</p> <p>16 to other employees as well.</p> <p>17 MR. CHEFFO: Okay. Move to strike.</p> <p>18 BY MR. CHEFFO:</p> <p>19 Q. When do you expect issue formal</p> <p>20 reviews, if ever, of the people who report to</p> <p>21 you?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 Asked and answered.</p> <p>24 THE WITNESS: I'm not sure what</p> <p>25 you're meaning by "formal reviews." I consider</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Anybody else?</p> <p>2 A. Not that I remember.</p> <p>3 Q. And how many times did you -- again,</p> <p>4 with the caveat I don't want you to tell me</p> <p>5 anything you talked to with them, but how many</p> <p>6 times did you meet with -- with them or talk</p> <p>7 with them?</p> <p>8 A. We spoke on Friday, and we spoke</p> <p>9 yesterday.</p> <p>10 Q. And how long was each session?</p> <p>11 A. I don't remember the Friday.</p> <p>12 Probably between one to two hours and yesterday</p> <p>13 was about two and a half hours.</p> <p>14 Q. And was anyone present, either in</p> <p>15 person or on the phone, other than the three --</p> <p>16 the two lawyers you mentioned and yourself?</p> <p>17 A. Not that I remember, no. I mean I'm</p> <p>18 -- I was in my office by myself. So nobody on</p> <p>19 my end.</p> <p>20 Q. Okay. And -- and the only documents</p> <p>21 you reviewed were publicly available documents</p> <p>22 on the web site in connection with your -- your</p> <p>23 deposition; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Do you know what was collected and</p>
<p style="text-align: right;">Page 19</p> <p>1 reviews my interactions with the staff.</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. Annual performance reviews.</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 It's a different question.</p> <p>6 THE WITNESS: Annual performance</p> <p>7 reviews, I don't have a framework for them this</p> <p>8 year. So I -- I don't know if we will receive</p> <p>9 that guidance to do so.</p> <p>10 BY MR. CHEFFO:</p> <p>11 Q. What did you do to prepare for</p> <p>12 today's deposition, if anything?</p> <p>13 A. I reviewed our web site information</p> <p>14 primarily, different reports that our agency</p> <p>15 had generated. I did speak with counsel for</p> <p>16 the county in preparation as well.</p> <p>17 Q. Okay. And I don't want you to tell</p> <p>18 me anything you talked about with your -- with</p> <p>19 your lawyer.</p> <p>20 But was it the attorney sitting next</p> <p>21 to you?</p> <p>22 A. He was one, yes.</p> <p>23 Q. Anybody else?</p> <p>24 A. It was by phone. Joe Ciaccio I</p> <p>25 think was the other fellow.</p>	<p style="text-align: right;">Page 21</p> <p>1 produced from your department in connection</p> <p>2 with this litigation?</p> <p>3 A. In a general way. I don't know</p> <p>4 every document that came.</p> <p>5 Q. What was -- what generally was</p> <p>6 collected and produced?</p> <p>7 A. I think our public documents and</p> <p>8 case files around the decedents who died in the</p> <p>9 opioid epidemic.</p> <p>10 Q. Anything else?</p> <p>11 A. E-mails I believe were also</p> <p>12 produced.</p> <p>13 Q. Anything else?</p> <p>14 A. Not that I remember. I -- I don't</p> <p>15 mean to say that there weren't. I just -- not</p> <p>16 that I know of --</p> <p>17 Q. Okay.</p> <p>18 A. -- right now.</p> <p>19 Q. How do you refer to your -- your</p> <p>20 department?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. That's why I'm just -- when I stay</p> <p>24 "the department."</p> <p>25 What -- what -- is that how you say,</p>

<p style="text-align: right;">Page 22</p> <p>1 "the department," or do you say the medical  2 examiner's office?  3 What -- how do you --  4 A. I call it the medical examiner's  5 office.  6 Q. M -- ME's office?  7 A. Or the office.  8 Q. Okay.  9 A. And crime laboratory. They're both  10 under me, but they're separate functions.  11 Q. Okay. And did you do anything else  12 other than review the documents you've told us  13 about and speak with your lawyers to prepare  14 for the deposition?  15 A. Maybe read some articles that I had  16 written on the opioid crisis. I think  17 that's -- that's everything.  18 Q. Did you speak with anybody else?  19 A. Not in preparation for today, no.  20 Q. You've been deposed before; is that  21 right?  22 A. In this litigation or in general?  23 Q. In general.  24 A. Yes, I have.  25 Q. And in this litigation, you were</p>	<p style="text-align: right;">Page 24</p> <p>1 complaint in this case?  2 A. No, I did not.  3 Q. Did you see it before it was filed?  4 A. No, sir.  5 Q. Did you -- have you assisted in the  6 preparation of any discovery responses in this  7 case?  8 A. Not directly. I mean if our  9 information was used in those responses, I  10 obviously oversee the agency that generates a  11 large amount of data. But the actual  12 preparation of those documents I would have to  13 say no, I did not.  14 Q. Okay. So in other words, no one  15 sent you a copy of an interrogatory response  16 and said, "Hey, Doctor, can you just take a  17 look at this or help fill in the blanks"?  18 A. No, sir.  19 Q. Are you aware of anybody on your  20 staff who did that?  21 A. No, sir.  22 Q. As is typical, I'm going to try and  23 see if I can start with a few kind of broad  24 concepts and see where you have some knowledge  25 and where you may not. So I'm going to ask you</p>
<p style="text-align: right;">Page 23</p> <p>1 deposed last --  2 A. Yes.  3 Q. -- week.  4 A. And it was also last week --  5 Q. Right.  6 A. -- on Monday.  7 Q. Approximately how many times were --  8 have you been deposed in -- in your career?  9 A. I don't keep track of it. I don't  10 honestly know.  11 Q. Is it over a hundred?  12 A. No. No. It certainly -- the bulk  13 of my testimony's criminal and usually doesn't  14 have a deposition ahead of time.  15 Q. How many times have you testified at  16 trial?  17 A. I don't keep track of that either.  18 That, I would say, you know, is over a hundred,  19 I know.  20 Q. And most of those have been in  21 connection with criminal proceedings is that  22 fair?  23 A. The majority I would say that's a  24 fair statement.  25 Q. Did you assist in preparing the</p>	<p style="text-align: right;">Page 25</p> <p>1 some broad questions and see if you can tell me  2 what -- what you think the responses are.  3 So do you consider yourself to be an  4 expert in opioids?  5 MR. BADALA: Objection to form.  6 THE WITNESS: The drugs themselves  7 or...  8 BY MR. CHEFFO:  9 Q. Yes, sir.  10 A. I'm familiar with them. I wouldn't  11 say I'm an expert at them.  12 Q. So things like pharmacokinetics or  13 pharmacology of opioids, you don't hold  14 yourself as an expert in those, do you?  15 A. No. Again, as part of my medical  16 training, I would have received information  17 about them. But advanced knowledge on them, I  18 wouldn't claim to have that.  19 Q. And are you an expert in the FDA?  20 MR. BADALA: Objection to form.  21 THE WITNESS: I'm familiar with the  22 FDA, but I don't know if anybody's an expert in  23 the FDA.  24 BY MR. CHEFFO:  25 Q. Okay. Are you an expert in the FDA?</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 A. No, sir. I'm not.</p> <p>2 Q. Are you an FDA [sic] in -- in</p> <p>3 labeling of pharmaceutical medicines?</p> <p>4 A. I -- I'm sorry. I missed the</p> <p>5 beginning of your question.</p> <p>6 Q. Are you an expert in the labeling of</p> <p>7 pharmaceutical medicines?</p> <p>8 A. Not something I have expertise in,</p> <p>9 sir.</p> <p>10 Q. And the rules and regulations for</p> <p>11 pharmaceutical companies that are promulgated</p> <p>12 by the FDA, are you an expert in that area?</p> <p>13 A. No. I do not have expertise in that</p> <p>14 area.</p> <p>15 Q. Are you an expert in toxicology?</p> <p>16 A. As part of my training, I have</p> <p>17 information in toxicology. I am not a</p> <p>18 toxicologist. I have expertise as a forensic</p> <p>19 pathologist in interpreting toxicology.</p> <p>20 Q. Is there a toxicologist or -- or</p> <p>21 more than one toxicologist in your office?</p> <p>22 A. Our office has a toxicology</p> <p>23 laboratory. It's staffed by a chief</p> <p>24 toxicologist, who is a Ph.D. level. I have a</p> <p>25 supervisor who has extensive experience. I</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Got it.</p> <p>2 Do you hold yourself out as an expert</p> <p>3 in epidemiology; yes or no?</p> <p>4 A. I -- I don't think I can answer that</p> <p>5 as a -- I -- I don't -- there's areas of</p> <p>6 epidemiology with which I am familiar and areas</p> <p>7 with which I am not.</p> <p>8 Q. So tell me --</p> <p>9 A. So I would say, if we're talking</p> <p>10 about the entire field of epidemiology, I don't</p> <p>11 carry a degree in that field, and I don't have</p> <p>12 specialized training in it beyond my experience</p> <p>13 as a medical examiner.</p> <p>14 Q. What, if any, areas of epidemiology</p> <p>15 do you hold yourself out as an expert in?</p> <p>16 And to the extent that you do,</p> <p>17 explain the basis of your expertise.</p> <p>18 A. I think I am a public health</p> <p>19 officer. So I would collect and analyze data</p> <p>20 as it would relate to different public health</p> <p>21 issues.</p> <p>22 Q. So you're an expert in what with</p> <p>23 respect to epidemiology?</p> <p>24 How would you characterize it?</p> <p>25 A. Data generation and analysis.</p>
<p style="text-align: right;">Page 27</p> <p>1 have multiple scientists at different levels.</p> <p>2 I believe the total number of</p> <p>3 employees in our toxicology laboratory is nine.</p> <p>4 I consider all of them, to a greater or lesser</p> <p>5 extent, to be toxicologists. But the chief</p> <p>6 toxicologist would be the Ph.D.-level person,</p> <p>7 Dr. Apollonio.</p> <p>8 Q. Is that a he or she?</p> <p>9 A. He.</p> <p>10 Q. And what was his first name?</p> <p>11 A. Luigino.</p> <p>12 Q. Okay. And are you an expert in</p> <p>13 epidemiology?</p> <p>14 A. Again, I have familiarity with</p> <p>15 epidemiology. I do not have formal training in</p> <p>16 epidemiology though.</p> <p>17 Q. So I guess the answer is no, you</p> <p>18 don't hold yourself out as an expert in</p> <p>19 epidemiology.</p> <p>20 Is that fair?</p> <p>21 A. I think, as a medical examiner, I</p> <p>22 have familiarity with public health issues. In</p> <p>23 terms of expertise with epidemiology,</p> <p>24 statistical things, I wouldn't presume to have</p> <p>25 that. But I do know things about epidemiology.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. In all fields?</p> <p>2 A. All fields of?</p> <p>3 Q. Anything.</p> <p>4 A. Epidemiology?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 THE WITNESS: I'm -- can you say</p> <p>7 your question.</p> <p>8 BY MR. CHEFFO:</p> <p>9 Q. You say you're an --</p> <p>10 A. I don't fully understand.</p> <p>11 Q. You said you're an expert in data</p> <p>12 generation, right, in the context of</p> <p>13 epidemiology?</p> <p>14 A. I think I have advanced knowledge</p> <p>15 there, yes.</p> <p>16 Q. Is that related in all areas of</p> <p>17 epidemiology or just as it relates to the</p> <p>18 functions of a -- a medical examiner?</p> <p>19 A. As it relates to my duties as a</p> <p>20 medical examiner and public health officer.</p> <p>21 Q. Have you ever published in the field</p> <p>22 of epidemiology?</p> <p>23 A. My publications would be</p> <p>24 epidemiologic-based, to some extent, in that</p> <p>25 we're generating data on a population basis.</p>

8 (Pages 26 - 29)

<p style="text-align: right;">Page 30</p> <p>1 So to that extent, I think forensics overlaps 2 with epidemiology. 3 Q. Are you an expert in the marketing 4 of prescription medicines? 5 A. No, sir. 6 Q. Are you an expert in the 7 distribution of pharmaceutical medicines? 8 A. No, sir. 9 Q. Are you an expert in -- in 10 pharmacies? 11 MR. BADALA: Objection to form. 12 THE WITNESS: I'm not sure. If you 13 can be more specific in your question. 14 BY MR. CHEFFO: 15 Q. Okay. Are you an expert in -- in 16 pain management? 17 A. No, sir. 18 Q. Are you an expert in addiction? 19 A. That's not within the scope of what 20 I practice. So I'd have to say that I don't 21 really carry any formal training in that or 22 expertise. 23 Q. Are you an expert in the treatment 24 of chronic pain? 25 A. Again, I have familiarity from my</p>	<p style="text-align: right;">Page 32</p> <p>1 the level of some really high-level law 2 enforcement person on that. 3 Q. And -- and where -- where did you 4 get your knowledge about drug cartels? 5 A. Primarily discussions with law 6 enforcement. My independent reading as well. 7 Q. And what do you know about them, and 8 how do they intersect with your work as a 9 medical examiner? 10 MR. BADALA: Objection to form. 11 THE WITNESS: Well, the drug 12 cartels, you know, are based in different parts 13 of the world, as you know. And when we were 14 talking back in the heroin phase of the opioid 15 crisis, I became familiar with -- and again, 16 these were discussions with law enforcement -- 17 drug cartels that would have been based in 18 Mexico who were considered to be responsible 19 for the large influx of heroin into especially 20 the middle part of the country. 21 There were drug cartels, again, 22 which I was, again, told of in discussions with 23 law enforcement, in Afghanistan and other parts 24 of the world who also distribute opioids. 25 There are drug cartels in South</p>
<p style="text-align: right;">Page 31</p> <p>1 medical education, but I wouldn't label that as 2 expertise. I don't treated those kind of 3 patients. So I don't have experience with it. 4 And other than my general knowledge 5 as a medical practitioner, I wouldn't say that 6 I have specific, you know, formal training or 7 experience in that. 8 Q. Are you an expert in the sales 9 practices of pharmaceutical companies? 10 MR. BADALA: Objection to form. 11 THE WITNESS: I just have some 12 familiarity with that. But no, I would not 13 claim expertise in that area. 14 BY MR. CHEFFO: 15 Q. Are you an expert in connection with 16 the DEA's rules and regulations? 17 MR. BADALA: Objection to form. 18 THE WITNESS: Pardon me for a 19 second. 20 No, I am not. 21 BY MR. CHEFFO: 22 Q. Are you an expert in -- in drug 23 cartels? 24 A. I know some about them, but I -- I 25 certainly wouldn't profess to be an expert at</p>	<p style="text-align: right;">Page 33</p> <p>1 America. The Medayee cartel is one that comes 2 to mind, which was a drug cartel that was very 3 active in the distribution of cocaine. 4 There are I think, you know, bases 5 in the United States, as understand it, with a 6 hierarchy going back to these cartels. And 7 that's my understanding of them. 8 BY MR. CHEFFO: 9 Q. And let -- let's -- let's focus for 10 my -- and -- and thank. You -- you -- you 11 answered my question. But I have a more 12 specific question. 13 With respect to -- to Cuyahoga 14 County, what is the impact of drug cartels 15 currently in connection with illicit drug use 16 in Cuyahoga County? 17 A. I - I couldn't be more specific 18 about it, other than my discussions with law 19 enforcement would indicate that the 20 distribution of drugs in the United States in 21 general comes through large cartels and then 22 will filter down to a place like Cuyahoga 23 County. And that's probably as specific as I 24 could be. 25 So I think that, as I understand</p>

<p style="text-align: right;">Page 34</p> <p>1 it -- pardon me -- the cartels have some  2 influence on the distribution of drugs here at  3 a local level.  4 Q. And when you say the distribution of  5 drugs, am I correct that you're talking about  6 the distribution of illegal or illicit drugs?  7 A. Again, I don't have the specific  8 knowledge whether they're distributing or  9 redeploying, you know, legitimate  10 pharmaceutical products as well as illegal  11 drugs. I don't know for sure.  12 Q. Right.  13 But if a drug cartel even were to  14 get its hands on what would otherwise have been  15 prescription medicines, that would be illicit  16 distribution, wouldn't it?  17 A. Yes.  18 Q. I mean they're not -- they're not  19 licensed to sell medicines to people in --  20 A. No.  21 Q. -- the county, are they?  22 A. Of course not. I think -- sure.  23 Q. So anything that they would  24 distribute or put into the system that winds up  25 in Cuyahogi [sic] -- Cuyahoga would be, by</p>	<p style="text-align: right;">Page 36</p> <p>1 Did I get that correct?  2 A. Yes.  3 Q. And -- and what did you mean by  4 that?  5 A. Well, the way I -- I see the  6 writings on the opioid crisis now, and from  7 CDC, which I consider, you know, our premier  8 public health organization, we talk about the  9 opioid crisis in a global way with distinct  10 phases that would include the opioid pain  11 reliever phase, the heroin phase, and the  12 fentanyl and the analogs of fentanyl phase.  13 Q. Are we in the fentanyl and analog of  14 fentanyl phase right now?  15 MR. BADALA: Objection to form.  16 THE WITNESS: I would say that  17 that's a designation. But I -- I would say,  18 you know, as a caution to that, the number of  19 people who die of heroin overdoses did not drop  20 to zero, nor did the number of people who die  21 of opioid pain reliever. The prescription pain  22 medications dropped to zero.  23 So I think it's a continuum. But in  24 terms of what's dominating the picture right  25 now for mortality, we are in the fentanyl</p>
<p style="text-align: right;">Page 35</p> <p>1 definition, illegal.  2 A. Right. It wouldn't be an illicit  3 substance necessarily like heroin, but it would  4 be illegal for them to be distributing it  5 because they're not appropriately the people to  6 be doing that.  7 Q. And you're aware that they  8 distribute both illicit substances like  9 synthetic fentanyl and carfentanil and -- and  10 heroin as well as could divert what would  11 otherwise have been lawful medicines.  12 MR. BADALA: Object -- objection to  13 form.  14 THE WITNESS: In a general way, yes.  15 It's a -- you know, I don't have the specific  16 law enforcement background to say absolute  17 certainty on that. But I would say, in a  18 general way, the cartels or distributors of  19 illegal substances would have access to both,  20 is my understanding of that.  21 BY MR. CHEFFO:  22 Q. Correct me if I'm wrong, but I -- I  23 tried to write this down, Doctor. I think you  24 said "during the heroin phase of the drug  25 crisis."</p>	<p style="text-align: right;">Page 37</p> <p>1 phase. Because fentanyl has been responsible  2 for so many more deaths in Cuyahoga County and  3 also nationally.  4 BY MR. CHEFFO:  5 Q. Well, you told me that there were  6 three phase, as you understood it, right?  7 One was the opioid phase, one was --  8 and I take it you mean by opioid prescription  9 phase?  10 A. Right. Yeah.  11 Q. And then there was the heroin phase,  12 and then there was the fentanyl and fentanyl  13 analog phase.  14 Did I get that right?  15 A. That's my understanding of what CDC  16 says. And that's my understanding of the  17 epidemic, yes.  18 Q. And what -- for what years did those  19 phases exist?  20 MR. BADALA: Objection to form.  21 THE WITNESS: I don't know that  22 people would be dogmatic about, you know, there  23 was an overlap in them. The opioid pain  24 reliever phase I think people would now look  25 back and say, you know, 1990s into maybe about</p>

<p style="text-align: right;">Page 38</p> <p>1 2010. Heroin phase would be over about 2010 to  2 2014. And as I understand, you know, the  3 public health thinking on that, the fentanyl  4 phase would be taking from -- taking off from  5 there.  6 Again, with that caveat that they  7 blend into each other, and they're not  8 necessarily one stopped and another one began  9 so much as another drug starts to take  10 increased prominence.  11 BY MR. CHEFFO:  12 Q. Did heroin come into being in the --  13 in -- prior to the 1990s?  14 A. Heroin was first synthesized I think  15 back in 1870-something.  16 Q. Has there been a problem in Cuyahoga  17 and other municipalities in this state and  18 country with heroin prior to the 1990s?  19 MR. BADALA: Objection to form.  20 THE WITNESS: I can't speak to  21 Cuyahoga County with certainty. Other places  22 that I've worked have had trouble with heroin.  23 BY MR. CHEFFO:  24 Q. Prior to the 1990s?  25 A. Prior to the 1990s, yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 believe in 2017, which is the last year we have  2 full data for, we had 24 overdoses that were  3 related to methamphetamine, either alone or in  4 combination, but mostly in combination.  5 And in terms of, you know,  6 comparability, it's certainly dwarfed by the  7 opioids. I don't think anybody likes to see  8 any of these drugs in our community.  9 But it isn't absent completely from  10 our community. And, in fact, about a year ago  11 we noticed an increase in the number of  12 seizures of methamphetamine in our county.  13 That hasn't really sustained itself over the  14 course of 2018, but it hasn't dropped back down  15 to zero.  16 So it's present here. I wouldn't  17 say it's at, you know, epidemic proportions.  18 Q. Has it ever been an epidemic?  19 MR. BADALA: Objection to form.  20 THE WITNESS: In Cuyahoga County,  21 not to my knowledge.  22 BY MR. CHEFFO:  23 Q. Have you looked at the data?  24 A. I have looked back at different drug  25 overdose data back to 2006 and have not really</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. And is -- is the same true for  2 illicit fentanyl, that there was a problem with  3 the abuse of illicit fentanyl prior to the  4 1990s?  5 A. There were -- I -- I don't know  6 that, actually.  7 Q. Okay. What about --  8 A. I'm not familiar with one.  9 Q. What about methamphetamines; was  10 there a problem with meth prior to the 1990s;  11 do you know?  12 MR. BADALA: Objection to form.  13 THE WITNESS: I'm aware of issues  14 with amphetamine that go back into the '50s and  15 '60s. Methamphetamine, I don't know if that  16 was the specific amphetamine or if it was just  17 the drug amphetamine. But that class of  18 compounds, there were issues with them prior to  19 1990.  20 BY MR. CHEFFO:  21 Q. Is there a current problem in  22 Cuyahoga County with the use of  23 methamphetamines?  24 A. We see it both in the drug chemistry  25 laboratory and in the mortality data. I</p>	<p style="text-align: right;">Page 41</p> <p>1 appreciated methamphetamine being a major  2 contributor to drug overdose mortality.  3 Q. So your -- your knowledge goes back  4 to 2006, your personal knowledge?  5 A. That's the data I've looked back at.  6 Q. And methamphetamine is not a -- a  7 lawful product, is it?  8 A. I don't believe so. Amphetamine  9 is -- it's a -- it can be used as a diet  10 suppressant or for other things. But  11 methamphetamine I don't think is anything that  12 can be lawfully prescribed.  13 Q. Same for heroin, right?  14 A. Right. Heroin is a what we call  15 Schedule 1 drug, which means it has no  16 legitimate medical use.  17 Q. What are the Schedule 1 drugs that  18 are abused in Cuyahoga County?  19 MR. BADALA: Objection to form.  20 THE WITNESS: I'd have to say heroin  21 is the one I know best. I don't know all of  22 the drugs that are Schedule 1. And I couldn't  23 tell you for certain every drug that has been  24 abused in Cuyahoga County. So I'd have to say  25 heroin is the one I know best, but --</p>

<p style="text-align: right;">Page 42</p> <p>1 BY MR. CHEFFO:</p> <p>2 Q. Meth is another one, right?</p> <p>3 A. Again, if it is Schedule 1, which --</p> <p>4 Q. What about cocaine?</p> <p>5 A. Cocaine is a drug that has a defined</p> <p>6 medical use. It's used as a topical anesthetic</p> <p>7 in certain types of surgery. Ear, nose and</p> <p>8 throat surgery. It can be used as a topical</p> <p>9 anesthetic for closing lacerations and wounds.</p> <p>10 So it has a legitimate medical use, so</p> <p>11 therefore, not Schedule 1.</p> <p>12 Q. Is -- is there a -- a cocaine</p> <p>13 problem currently in Cuyahoga County?</p> <p>14 A. There is an elevation in cocaine</p> <p>15 deaths in Cuyahoga County. Our analysis looks</p> <p>16 at this as really a byproduct largely of the --</p> <p>17 the -- the rise in cocaine deaths is a</p> <p>18 byproduct of the opioid crisis.</p> <p>19 Q. So is it really your testimony that</p> <p>20 everybody who has and overdose from cocaine,</p> <p>21 that's somehow related to opioids?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 BY MR. CHEFFO:</p> <p>24 Q. Is that your testimony?</p> <p>25 A. Oh, I'm sorry. No. That wouldn't</p>	<p style="text-align: right;">Page 44</p> <p>1 in 2016 and 2017 is related to mixtures of</p> <p>2 cocaine with fentanyl.</p> <p>3 BY MR. CHEFFO:</p> <p>4 Q. So you're -- you're saying that</p> <p>5 there's more deaths based on cocaine use</p> <p>6 because there's a combination of fentanyl?</p> <p>7 Is that -- am I understanding that</p> <p>8 right?</p> <p>9 A. No. What I'm saying is there's a --</p> <p>10 there are deaths of -- by cocaine without the</p> <p>11 presence of fentanyl. But the elevations that</p> <p>12 we saw in 2016, after at least a decade of</p> <p>13 stability, those were driven by fentanyl.</p> <p>14 Q. Is there a cocaine epidemic in</p> <p>15 Cuyahoga County today?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 THE WITNESS: There are more deaths</p> <p>18 from cocaine. But again, I have to see it in a</p> <p>19 bigger context.</p> <p>20 BY MR. CHEFFO:</p> <p>21 Q. Is there a cocaine crisis in</p> <p>22 Cuyahoga County?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 THE WITNESS: Well, I think, you</p> <p>25 know, there's concerns about that rise. But</p>
<p style="text-align: right;">Page 43</p> <p>1 be my testimony at all.</p> <p>2 Q. Okay. Cocaine --</p> <p>3 A. If I could finish --</p> <p>4 Q. No. I -- I --</p> <p>5 MR. BADALA: You can finish your</p> <p>6 answer. You can.</p> <p>7 MR. CHEFFO: There's no question</p> <p>8 pending. But if you --</p> <p>9 MR. BADALA: There was a --</p> <p>10 MR. CHEFFO: -- want to make a</p> <p>11 speech.</p> <p>12 MR. BADALA: -- pending. You asked</p> <p>13 him a question.</p> <p>14 You can -- you can finish.</p> <p>15 MR. CHEFFO: Go ahead.</p> <p>16 THE WITNESS: We have a certain</p> <p>17 baseline of cocaine deaths, again, going</p> <p>18 back -- you know, my data goes back to 2006,</p> <p>19 with which I'm most familiar. And that</p> <p>20 remained relatively stable until 2016 when it</p> <p>21 started to pull up.</p> <p>22 And when we looked at that data, the</p> <p>23 cocaine deaths without fentanyl being present</p> <p>24 had remained again where that baseline was.</p> <p>25 And the elevation that we saw in cocaine deaths</p>	<p style="text-align: right;">Page 45</p> <p>1 they're tied, as I say, back to the fentanyl.</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. Is there a cocaine crisis in</p> <p>4 Cuyahoga County?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 THE WITNESS: I'd have to say yes</p> <p>7 and no.</p> <p>8 BY MR. CHEFFO:</p> <p>9 Q. How long has there been a cocaine</p> <p>10 crisis in Cuyahoga County?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 THE WITNESS: The elevation that we</p> <p>13 saw in cocaine mortality started in 2016.</p> <p>14 BY MR. CHEFFO:</p> <p>15 Q. Was there a cocaine crisis prior to</p> <p>16 2016 in Cuyahoga County?</p> <p>17 A. I wouldn't characterize it as a</p> <p>18 change over baseline at an epidemic level.</p> <p>19 Q. I didn't ask that, Doctor. I'm not</p> <p>20 asking whether it changed.</p> <p>21 Was there a cocaine crisis at any</p> <p>22 level prior to 2016 in Cuyahoga County?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 THE WITNESS: There were certainly a</p> <p>25 hundred people, on average, dying.</p>

<p style="text-align: right;">Page 46</p> <p>1 BY MR. CHEFFO:</p> <p>2 Q. And is that a crisis; yes or no?</p> <p>3 A. I wouldn't like it. I -- I don't</p> <p>4 know -- you know, as I understand a crisis, it</p> <p>5 overwhelms the ability of a county to respond</p> <p>6 to it. And those responses, it wasn't</p> <p>7 worsening over --</p> <p>8 Q. So --</p> <p>9 A. -- that time frame. So using that,</p> <p>10 you know, understanding of the crisis, I'd have</p> <p>11 to say I -- it's not good. But I wouldn't say</p> <p>12 that it acutely worsened into a crisis phase.</p> <p>13 Q. Okay. So there has never -- in your</p> <p>14 -- in your estimation, there has never been a</p> <p>15 crisis for cocaine use in Cuyahoga County?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 BY MR. CHEFFO:</p> <p>18 Q. Is that right?</p> <p>19 A. No. That wouldn't be my impression.</p> <p>20 Q. Has there ever been a crisis of</p> <p>21 cocaine use in Cuyahoga County?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 THE WITNESS: I don't know. I mean</p> <p>24 Ohio had an instance in the 1980s and '90s with</p> <p>25 crack cocaine that was considered a crisis.</p>	<p style="text-align: right;">Page 48</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 Misstates his testimony.</p> <p>3 THE WITNESS: No. That's not what I</p> <p>4 said, sir.</p> <p>5 BY MR. CHEFFO:</p> <p>6 Q. Was there a crack cocaine crisis in</p> <p>7 the United States back in the '80s?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 THE WITNESS: Yes, there was.</p> <p>10 BY MR. CHEFFO:</p> <p>11 Q. Are you aware of any connection</p> <p>12 between the crack cocaine crisis and opioids?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 THE WITNESS: They're both illicit</p> <p>15 substances. I don't know.</p> <p>16 BY MR. CHEFFO:</p> <p>17 Q. Are you aware of any connection</p> <p>18 between the two?</p> <p>19 MR. BADALA: Same objection.</p> <p>20 THE WITNESS: I mean I -- I -- I</p> <p>21 don't know -- I don't know.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. Are you an expert in -- well, strike</p> <p>24 that.</p> <p>25 Do you know what the OARRS database</p>
<p style="text-align: right;">Page 47</p> <p>1 And I wasn't here, and I don't really have</p> <p>2 firsthand knowledge of that.</p> <p>3 But, you know, it was in other</p> <p>4 jurisdictions that we're seeing cocaine --</p> <p>5 crack cocaine crisis epidemics. So it's</p> <p>6 plausible.</p> <p>7 BY MR. CHEFFO:</p> <p>8 Q. Was --</p> <p>9 A. But I don't have first knowledge.</p> <p>10 Q. You -- you don't know.</p> <p>11 A. I can't testify to that.</p> <p>12 Q. Okay. And was crack cocaine ever</p> <p>13 marketed by any pharmaceutical company?</p> <p>14 A. No, sir.</p> <p>15 Q. Was it ever lawfully distributed?</p> <p>16 A. No, sir.</p> <p>17 Q. And yet there was a crack cocaine</p> <p>18 crisis back in the '80s in Cuyahoga County; is</p> <p>19 that right?</p> <p>20 MR. BADALA: Objection to form.</p> <p>21 THE WITNESS: Again, I have to say I</p> <p>22 don't know that for certain.</p> <p>23 BY MR. CHEFFO:</p> <p>24 Q. I thought you just testified about</p> <p>25 that a minute ago.</p>	<p style="text-align: right;">Page 49</p> <p>1 is?</p> <p>2 A. Yes, I do.</p> <p>3 Q. What's it?</p> <p>4 A. It is a prescription drug monitoring</p> <p>5 program for the State of Ohio. OARRS is an</p> <p>6 acronym. It stands for Ohio Automated Rx or</p> <p>7 prescription Reporting System.</p> <p>8 And what it collects is the</p> <p>9 information from prescribing of controls</p> <p>10 substances around the state and makes that</p> <p>11 available to different parties for their use.</p> <p>12 Q. So -- and there are certain rules</p> <p>13 that govern how and when healthcare providers</p> <p>14 should access and input information to OARRS.</p> <p>15 Is that fair?</p> <p>16 A. I wouldn't profess to know all their</p> <p>17 rules and regulations. My understanding is</p> <p>18 that the pharmacies enter their data into</p> <p>19 OARRS -- pardon me -- to create the database.</p> <p>20 And then, if there are controlled substances</p> <p>21 that are being distributed from a healthcare</p> <p>22 provider's office, they also have to be entered</p> <p>23 into OARRS.</p> <p>24 Q. Okay. And beyond that general</p> <p>25 understanding, do you hold yourself out as an</p>

<p style="text-align: right;">Page 50</p> <p>1 expert in the rules and operation and 2 regulations of OARRS? 3 A. No. I have familiarity with OARRS. 4 But I didn't write the legislation. I wouldn't 5 consider myself all-knowing about it either. 6 Q. Do you assessors from time to time 7 in your professional capacity? 8 A. Yes. We do as an office, and I have 9 individually as well. 10 Q. How frequently do you assessors, and 11 in what circumstances? 12 MR. BADALA: Objection to form. 13 THE WITNESS: We -- as an office I 14 would have to say -- and again, I have an 15 account in OARRS and delegates who would use 16 it. We use that information very frequently. 17 Most recently we've used it to go 18 back and look at the individuals who overdosed 19 in 2016 and early 2017 on fentanyl. We've used 20 it to look at individuals who've overdosed on 21 heroin as well. 22 BY MR. CHEFFO: 23 Q. Do you conduct autopsies personally? 24 A. Yes, I do. 25 Q. Do you -- in connection with your</p>	<p style="text-align: right;">Page 52</p> <p>1 office, either on computer or some other 2 fashion? 3 A. Yes. There's a web site for OARRS. 4 You have a user name and a password, like my 5 other web sites. I have those. And I can 6 access that. 7 Or, because of my designation, I can 8 have delegates access that through me. 9 Q. And I'm just trying to find out, 10 Doctor, your own personal use, if any. 11 So in other words, do you sit at a 12 terminal ever and look at OARRS database and 13 conduct searches or queries; do you ask someone 14 else to do that; or do you never do it in 15 connection with your autopsies? 16 I'm trying to find out when you, Dr. 17 Gilson, do an autopsy, under what 18 circumstances, if any, do you either access 19 OARRS or do you ask someone to access OARRS on 20 your behalf for a specific case? 21 MR. BADALA: Objection to form. 22 THE WITNESS: I ask my designees to 23 access it for drug overdose cases, my own and 24 others. I access it in my own cases if there's 25 some pressing issue that I feel needs a more</p>
<p style="text-align: right;">Page 51</p> <p>1 own personal work as a medical examiner in 2 connection with an autopsy, in what 3 circumstances, if any, do you consult OARRS? 4 A. We have used the OARRS database to 5 look back on the drug overdose deaths that have 6 come through our county to look for 7 relationships there between prescribed -- 8 prescription controlled substances and the 9 illicit overdoses, especially with heroin and 10 fentanyl and some of the analogs of fentanyl. 11 MR. CHEFFO: Can you read back my 12 question, please. 13 (The record was read as requested.) 14 THE WITNESS: I -- in doing 15 autopsies on drug overdoses myself and in my 16 capacity as the medical examiner overseeing the 17 agency. I review the work that comes through 18 the office as well. 19 So it that's my professional 20 capacity, if I understood your question 21 correctly. 22 BY MR. CHEFFO: 23 Q. No, I don't think you did. 24 Is there -- is there a -- a terminal 25 or way that you can access OARRS from your</p>	<p style="text-align: right;">Page 53</p> <p>1 rapid turnaround time. 2 BY MR. CHEFFO: 3 Q. Is it accessed by you or on your 4 behalf in connection with every autopsy you do 5 in connection with a drug overdose case? 6 MR. BADALA: Objection to form. 7 THE WITNESS: That's our ideal. 8 Honestly, with the volume of drug overdose 9 cases we've done, we've fallen behind to some 10 extent on our ability to look at the OARRS 11 database. 12 But our goal is to review all of 13 them on every drug overdose autopsy with the 14 opioids. 15 BY MR. CHEFFO: 16 Q. How long does it take to actually 17 look at OARRS to find out if somebody who 18 you're doing an autopsy on is in the system? 19 A. To find out if just they have a file 20 can be relatively quick. 21 Q. Like two minutes? 22 A. Maybe even less. I mean getting on 23 sometimes is more challenging than others. But 24 pretty much, you know, getting around OARRS -- 25 and there have been modifications certainly</p>

<p style="text-align: right;">Page 54</p> <p>1 since I was granted access to try to facilitate</p> <p>2 the use of it, to make it easier to access.</p> <p>3 But it's not a time consuming</p> <p>4 process sometimes to find out if somebody has</p> <p>5 no file there.</p> <p>6 Q. Right.</p> <p>7 And that -- and why -- what are the</p> <p>8 reasons why you would access OARRS in</p> <p>9 connection with an autopsy?</p> <p>10 A. To document a relationship between</p> <p>11 somebody who died of a drug overdose and their</p> <p>12 prescribing history.</p> <p>13 Q. What would OARRS tell you or could</p> <p>14 it tell you?</p> <p>15 A. It would tell us whether or not, in</p> <p>16 their lookback period, that person had received</p> <p>17 prescriptions for controlled substances.</p> <p>18 Q. Anything else?</p> <p>19 A. It would give us information about</p> <p>20 prescriber, would give us information about the</p> <p>21 pharmacy where they were filled.</p> <p>22 Q. Does it tell you whether they had an</p> <p>23 addiction problem?</p> <p>24 MR. BADALA: Objection to form.</p> <p>25 THE WITNESS: That's not part of the</p>	<p style="text-align: right;">Page 56</p> <p>1 So OARRS will tell you if someone</p> <p>2 received a prescription for a scheduled</p> <p>3 medicine; is that right?</p> <p>4 A. Right. A controlled substance.</p> <p>5 They have to be entered into OARRS.</p> <p>6 Q. And what -- what is a -- what is a</p> <p>7 definition of a controlled substance that would</p> <p>8 show up in OARRS?</p> <p>9 A. The opioid, benzodiazepines. Those</p> <p>10 are the big ones.</p> <p>11 Q. Anything else?</p> <p>12 A. Amphetamine.</p> <p>13 Q. So it's not just opioids, is it?</p> <p>14 A. Not just opioids. That's right.</p> <p>15 Q. So it's benzodiazepines,</p> <p>16 amphetamines, opioids.</p> <p>17 What else? Anything else?</p> <p>18 A. I don't know everything that's in</p> <p>19 the database, to be honest.</p> <p>20 Q. If they had the topical -- well,</p> <p>21 strike that. That's probably used for surgery.</p> <p>22 Cocaine you mentioned earlier.</p> <p>23 Would that show up in the -- in the</p> <p>24 OARRS database?</p> <p>25 A. I never have seen it. I don't know.</p>
<p style="text-align: right;">Page 55</p> <p>1 OARRS database.</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. Does it tell you whether they were</p> <p>4 ever treated for addiction?</p> <p>5 A. We wouldn't glean that information</p> <p>6 from the OARRS database. We do look for it</p> <p>7 through our addiction -- alcohol and drug</p> <p>8 addiction mental health services. Or when my</p> <p>9 scene investigators respond to a death scene,</p> <p>10 they will specifically see if the person has</p> <p>11 received treatment.</p> <p>12 Because the public facilities</p> <p>13 represent a portion of our treatment capacity,</p> <p>14 and then there are private facilities which</p> <p>15 don't have to report. But we still want to</p> <p>16 capture that information for public health</p> <p>17 purposes.</p> <p>18 Q. And I'd like to just -- just focus</p> <p>19 for a minute on OARRS. Okay. I'm just going</p> <p>20 to ask you some specific questions. We may</p> <p>21 talk about other things at the office. I'm</p> <p>22 sure we will today. But I want to just have an</p> <p>23 understanding, based on -- on -- on your</p> <p>24 understanding of what OARRS does and does not</p> <p>25 do.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Anything else you can think of,</p> <p>2 other than benzodiazepines, amphetamines and</p> <p>3 opioids?</p> <p>4 A. There's other drugs that are like</p> <p>5 benzodiazepines, like zolpidem, which aren't</p> <p>6 technically in that family. They're also in</p> <p>7 OARRS.</p> <p>8 Q. Okay. So OARRS will tell you if</p> <p>9 someone received or was prescribed a controlled</p> <p>10 substance; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. It won't tell you whether they were</p> <p>13 addicted to that substance, will it?</p> <p>14 A. No. It can't -- it won't --</p> <p>15 Q. It won't --</p> <p>16 A. -- capture that information.</p> <p>17 Q. It won't tell you if they were</p> <p>18 ever -- received substance abuse treatment or</p> <p>19 counseling, will it?</p> <p>20 A. No. It's not in that database.</p> <p>21 Q. It won't tell you if they were --</p> <p>22 had a drug problem prior to receiving the</p> <p>23 prescription, will it?</p> <p>24 MR. BADALA: Objection to form.</p> <p>25 THE WITNESS: One of the things</p>

<p style="text-align: right;">Page 58</p> <p>1 we've used OARRS for is to document doctor 2 shopping. So I'd have to say that there's -- 3 when we see that, it's a concern that 4 something's going on and very suggestive of 5 somebody who has a drug problem. 6 BY MR. CHEFFO: 7 Q. What is doctor shopping? 8 A. We use the definition that was 9 provided by one of our treatment individuals 10 when we did our initial review of overdoses. I 11 believe she took that from the Department of 12 Health for the state, which is accessing five 13 or more prescribers in a 12-month period. 14 Q. So if someone accesses and has four 15 doctors at the same time getting controlled 16 substances, that's not doctor shopping, under 17 your definition? 18 A. That's right. 19 Q. Would you consider that to be doctor 20 shopping? 21 If you were doing an autopsy, and 22 you looked at the OARRS database, and you saw 23 that Mrs. Smith got coordinate prescriptions, 24 let's say even opioids, from four separate 25 doctors at the same time, would that raise a</p>	<p style="text-align: right;">Page 60</p> <p>1 THE WITNESS: Five prescribers 2 within a 12-month period is our definition of 3 doctor shopping. 4 BY MR. CHEFFO: 5 Q. Two, three or four is not, under 6 your definition, right? 7 A. Does not meet the definition for 8 doctor shopping that we -- we adopted. 9 Q. You mentioned morphine equivalent as 10 being another surrogate or -- or -- or signal. 11 How does morphine equivalent play 12 into the analysis of doctor shopping? 13 A. It doesn't play into it at all. The 14 doctor shopping definition is five or more 15 prescribers within a 12-month period. 16 Q. It doesn't matter what the morphine 17 equivalents are? 18 A. I'm not saying that. I just -- it 19 doesn't meet the definition of doctor shopping. 20 Or the definition we use for doctor shopping 21 does not include a reference to 22 morphine-equivalent doses. 23 Q. So -- so in terms of doctor 24 shopping, the only definition that your -- your 25 office uses if -- is if somebody has seen or</p>
<p style="text-align: right;">Page 59</p> <p>1 concern to you that that's doctor shopping? 2 MR. BADALA: Objection to form. 3 THE WITNESS: It doesn't meet the 4 definition of doctor shopping. It could raise 5 a concern about morphine-equivalent doses that 6 she's receiving, which would be another source 7 of concern to us. 8 BY MR. CHEFFO: 9 Q. Would you be concerned if you saw 10 that? 11 MR. BADALA: Objection to form. 12 THE WITNESS: Sure. 13 BY MR. CHEFFO: 14 Q. But -- so -- but from a statistics 15 and -- perspective, you would not characterize 16 that as doctor shopping; is that right? 17 A. It does not meet the definition that 18 we use for doctor shop. 19 Q. And how long have you used that 20 definition? 21 A. Since 2013. 22 Q. So if somebody has five doctors that 23 they're getting the prescriptions from at the 24 same time, that's doctor shopping, right? 25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 61</p> <p>1 been prescribed a controlled substances by five 2 or more doctors within a 12-month period; is 3 that right? 4 A. That's our definition of doctor 5 shopping. 6 Q. Now, am I correct that -- that you 7 and your colleague are not slavishly adhered to 8 formal definition if things don't make sense to 9 you? 10 MR. BADALA: Objection to form. 11 THE WITNESS: I don't think anybody 12 should do that really. 13 BY MR. CHEFFO: 14 Q. Right. 15 So if you were doing an 16 investigation, and someone received high doses 17 of a controlled substance by four doctors at 18 the same time, would part of your analysis be 19 that you want to explore whether this person 20 was actually was engaging in doctor shopping? 21 A. What we did was, when we've 22 identified individuals who met the definition 23 for doctor shopping, we would refer them to the 24 Board of Pharmacy for investigation. 25 And there were instances as well</p>

<p style="text-align: right;">Page 62</p> <p>1 when we saw people who had high</p> <p>2 morphine-equivalent doses that we also referred</p> <p>3 to the Board of Pharmacy for follow-up.</p> <p>4 Q. So am I correct that, if -- if -- if</p> <p>5 somebody had one doctor and you believed that</p> <p>6 there was a question about the morphine</p> <p>7 equivalent that was being prescribed, that</p> <p>8 person could be referred to the Board of</p> <p>9 Pharmacy?</p> <p>10 A. We have done that in some instances,</p> <p>11 yes.</p> <p>12 Q. Have you ever raised concerns about</p> <p>13 doctor shopping when someone has four doctors</p> <p>14 prescribing let's say opioid medicines at the</p> <p>15 same time?</p> <p>16 A. I'm sorry if I'm not clear. By</p> <p>17 definition, we don't consider that doctor</p> <p>18 shopping.</p> <p>19 Q. And that's not what I'm asking</p> <p>20 though.</p> <p>21 You may not consider it under your</p> <p>22 definition, but have you acted in a practical</p> <p>23 manner and referred anyone to the Board of</p> <p>24 Pharmacy when you've seen someone who has two,</p> <p>25 three or four doctors prescribing medicine at</p>	<p style="text-align: right;">Page 64</p> <p>1 further investigation as well.</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. In that one case that you handled,</p> <p>4 why did you -- well, let me strike that.</p> <p>5 When you say you referred to the</p> <p>6 Board of Pharmacy, is -- is that -- am I</p> <p>7 correct that that's referring the licensed</p> <p>8 healthcare provider to the Board of Pharmacy?</p> <p>9 Is that -- is that the -- the person</p> <p>10 who is subject to the jurisdiction of the Board</p> <p>11 of Pharmacy?</p> <p>12 A. Right.</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 THE WITNESS: Sorry.</p> <p>15 The prescriber would be subject to</p> <p>16 oversight by the Board of Pharmacy.</p> <p>17 BY MR. CHEFFO:</p> <p>18 Q. And why did you refer that -- was it</p> <p>19 a doctor? Was it a health -- a nurse</p> <p>20 practitioner? Do you remember?</p> <p>21 A. I don't remember exactly.</p> <p>22 Q. Okay. So whoever it was, why did</p> <p>23 you refer that healthcare practitioner, that</p> <p>24 prescriber, to the Board of Pharmacy?</p> <p>25 A. Because this individual had seemed</p>
<p style="text-align: right;">Page 63</p> <p>1 the same time?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 THE WITNESS: I can't give you</p> <p>4 specific names, but we have referred people to</p> <p>5 Board of Pharmacy where it seemed like there</p> <p>6 was an excessive dosing of prescription pain</p> <p>7 medication who did not have five or more</p> <p>8 prescribers in a 12-month period.</p> <p>9 And it can be as few as one. I</p> <p>10 distinctly remember one of my own case where a</p> <p>11 woman overdosed. She was basically described</p> <p>12 by her husband as, you know, falling asleep</p> <p>13 right before she died and, you know, had a lot</p> <p>14 of prescriptions from I think one individual.</p> <p>15 And we referred her for further</p> <p>16 investigation. I don't remember if it was in</p> <p>17 conjunction with law enforcement, who may have</p> <p>18 already been aware of this, or if it was in our</p> <p>19 review -- our referral to the Board of</p> <p>20 Pharmacy. I don't remember the details of the</p> <p>21 follow-up.</p> <p>22 But we use a specific definition of</p> <p>23 doctor shopping. But obviously, if we saw</p> <p>24 things that didn't meet that definition but</p> <p>25 were concerning, we would refer that for</p>	<p style="text-align: right;">Page 65</p> <p>1 to receive a lot of pain medication based on</p> <p>2 our OARRS review and also was symptomatic of --</p> <p>3 I think she was abusing her medications and</p> <p>4 died of a drug overdose and, you know, left a</p> <p>5 couple kids behind and a husband.</p> <p>6 Q. And --</p> <p>7 A. Not that we reported it because of</p> <p>8 that, but just part of the tragedy.</p> <p>9 Q. And -- and did you refer it to the</p> <p>10 Board of Pharmacy because you believed that</p> <p>11 there was a question about whether the doctor</p> <p>12 or healthcare provider had engaged in</p> <p>13 appropriate medical care of the patient?</p> <p>14 A. We were concerned about the role</p> <p>15 that the medications had played in her death.</p> <p>16 I don't practice that kind of medicine. But</p> <p>17 that's the kind of investigation that we would</p> <p>18 ask the Board of Pharmacy to conduct.</p> <p>19 Q. Did you question whether the doctor</p> <p>20 did the right thing in prescribing that much or</p> <p>21 was careless in monitoring the patient?</p> <p>22 MR. BADALA: Objection.</p> <p>23 BY MR. CHEFFO:</p> <p>24 Q. Like were those factors in -- in</p> <p>25 your consideration?</p>

<p style="text-align: right;">Page 66</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 THE WITNESS: I was concerned about</p> <p>3 how much pain medicine this individual had</p> <p>4 received and the nature of her death, that they</p> <p>5 weren't being used properly.</p> <p>6 BY MR. CHEFFO:</p> <p>7 Q. Do you know happened to the</p> <p>8 healthcare prescriber, if anything?</p> <p>9 A. I do not.</p> <p>10 Q. Did you follow up?</p> <p>11 A. No, I did not.</p> <p>12 Q. Do you know if the -- do you know</p> <p>13 anything about why the prescriber wrote the</p> <p>14 prescriptions?</p> <p>15 MR. BADALA: Objection to form.</p> <p>16 THE WITNESS: I didn't speak</p> <p>17 personally to the prescriber.</p> <p>18 BY MR. CHEFFO:</p> <p>19 Q. Do you know what condition the</p> <p>20 decedent was being treated for?</p> <p>21 A. I don't remember. My investigators,</p> <p>22 when they respond to a death scene, will take a</p> <p>23 medical history. I don't remember the details</p> <p>24 of that.</p> <p>25 Q. Do you know if the doctor -- do you</p>	<p style="text-align: right;">Page 68</p> <p>1 A. And it would have been a file we</p> <p>2 would have released over.</p> <p>3 Q. Do you have a place that you keep</p> <p>4 all of the -- the names of the practitioners</p> <p>5 who you have referred to boards of pharmacy or</p> <p>6 any type of law enforcement agency?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 THE WITNESS: I believe that exists</p> <p>9 for the agency. I don't personally have --</p> <p>10 that's not something I personally do.</p> <p>11 BY MR. CHEFFO:</p> <p>12 Q. If you wanted to find it, who would</p> <p>13 you ask?</p> <p>14 A. Either the Board of Pharmacy</p> <p>15 themselves or -- the person I most often, you</p> <p>16 know, ask to make the referrals is Hugh Shannon</p> <p>17 in my office, my operations chief.</p> <p>18 Q. Do you hold yourself out as an</p> <p>19 expert in ARCOS.</p> <p>20 Do you know what that is?</p> <p>21 A. I know what it is, and I have a</p> <p>22 general knowledge of it. But I would not claim</p> <p>23 to be an expert in that.</p> <p>24 Q. Are you an expert in statistics?</p> <p>25 A. I know some statistics. I -- I</p>
<p style="text-align: right;">Page 67</p> <p>1 have any personal knowledge about whether the</p> <p>2 doctor was influenced by anybody else in his or</p> <p>3 her prescribing?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 THE WITNESS: I didn't speak to the</p> <p>6 doctor.</p> <p>7 BY MR. CHEFFO:</p> <p>8 Q. Right.</p> <p>9 Do you have any information at all</p> <p>10 about why the doctor prescribed the medicine?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 THE WITNESS: Again, in reviewing</p> <p>13 the scene investigation and history take --</p> <p>14 that was taken, there may have been a medical</p> <p>15 condition that would have, you know, been</p> <p>16 treated with opioids by that doctor. I don't</p> <p>17 remember that.</p> <p>18 BY MR. CHEFFO:</p> <p>19 Q. Do you remember the name of the</p> <p>20 person that you referred?</p> <p>21 A. No, I don't.</p> <p>22 Q. That would be in your files though,</p> <p>23 wouldn't it?</p> <p>24 A. Somewhere, yeah.</p> <p>25 Q. Do --</p>	<p style="text-align: right;">Page 69</p> <p>1 don't hold any degree in statistics. And I</p> <p>2 would not say that I would be somebody</p> <p>3 consulted as an expert in statistics.</p> <p>4 Q. Just to follow up on the -- the</p> <p>5 doctor shopping, what's the -- what is the</p> <p>6 definition of -- of how your department, your</p> <p>7 office, defines doctor shopping?</p> <p>8 A. Again, we adopted a definition from</p> <p>9 our addiction medicine specialist on our review</p> <p>10 panel. And I believe she was using a</p> <p>11 definition from Ohio Department of Health,</p> <p>12 which is five or more prescribers within a</p> <p>13 12-month period.</p> <p>14 Q. Is it 12-month --</p> <p>15 A. For the OARRS database. I should</p> <p>16 say --</p> <p>17 Q. It's --</p> <p>18 A. -- not just --</p> <p>19 Q. Sorry?</p> <p>20 A. -- you know, five or more</p> <p>21 prescribers, and you're antibiotics or</p> <p>22 noncontrolled substances. Five or more</p> <p>23 prescribers in the OARRS database.</p> <p>24 Q. It's -- it's 12, not 13 months?</p> <p>25 A. Pardon?</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. It's -- your recollection is it's 12 2 months, not 13 months? 3 A. We use 12 months in our office. 4 Q. And what was that -- that 5 professional's name that made the 6 recommendation; do you remember? 7 A. Dr. Christine de los Reyes. 8 Q. And how many -- 9 A. I'm sorry. If I could just finish. 10 She was -- 11 Q. Yep. 12 A. -- the medical director of the 13 alcohol, drug addiction and mental health 14 services for Cuyahoga County at that time. 15 She's since left that position and gone back to 16 her practice of addiction medicine. 17 Q. How many -- and let me talk first 18 about you personally, and then I'll ask you 19 some questions about the department. 20 But how many cases of doctor 21 shopping have you identified since you have 22 joined the office in Cuyahoga? 23 A. I don't know. 24 Q. Is it more than one? 25 Can you recall anyone other than the</p>	<p style="text-align: right;">Page 72</p> <p>1 the Board of Pharmacy? 2 A. Yes. 3 Q. And what -- what kind of information 4 do you send them? 5 A. We send them the patient name -- or 6 the decedent name, actually. These would be 7 people who had overdosed. And that, based on 8 our analysis of OARRS, we were seeing more 9 prescribers who fit into the definition of 10 doctor shopping. And it's -- you know, the 11 database is generated by the Board of Pharmacy. 12 And they can investigate further as they see 13 fit. 14 Q. Every -- is it fair to say that 15 every case of doctor shopping that you have 16 identified you've referred to the Board of 17 Pharmacy, you or your office? 18 MR. BADALA: Objection to form. 19 THE WITNESS: I believe so. 20 BY MR. CHEFFO: 21 Q. That's the policy? 22 A. Yes. 23 Q. So in any situation where someone 24 receives five -- prescriptions from five -- 25 control -- strike that.</p>
<p style="text-align: right;">Page 71</p> <p>1 one we've been talking about? 2 A. Going back through retrospective 3 data, yeah, it's more -- certainly more than 4 one. 5 Q. I'm talking about you. 6 How many times have you, in an 7 autopsy or something, you know, kind of 8 basically told your people to make a -- 9 A. Yes. There -- 10 Q. -- report -- let me finish -- 11 A. Sure. 12 Q. -- to the Board of Pharmacy in 13 connection with a situation where you thought 14 someone was doctor shopping. 15 A. Frequently. When -- especially when 16 we were doing our face-to-face reviews and had 17 that information that somebody was doctor 18 shopping. I reviewed a lot of that data myself 19 initially and then would use a delegate to do 20 the subsequent reviews. 21 So yeah. I -- I can't give you a 22 number, but it's certainly more than one. 23 Q. Okay. And when you believe that 24 there's doctor shopping, is it your practice to 25 report all of the five or more prescribers to</p>	<p style="text-align: right;">Page 73</p> <p>1 In any situation where a decedent 2 received controlled substance prescriptions 3 from five or more healthcare providers over -- 4 or within a 12-month period, it's the policy of 5 your office to refer each of those prescribers 6 to the Board of Pharmacy, correct? 7 MR. BADALA: Objection to form. 8 THE WITNESS: We're not referring 9 the prescribers. We're referring the decedent 10 who has that profile to the Board of 11 Pharmacy -- 12 BY MR. CHEFFO: 13 Q. Well -- 14 A. -- for further investigation of the 15 prescribing -- his prescription history. 16 Q. Do you also provide information 17 about the prescribers? 18 A. The prescribers would be within the 19 OARRS file. So we refer the decedent. And the 20 Board of Pharmacy, I have to say they have 21 their own investigative unit. I don't know 22 their practices. But they would have access to 23 the OARRS file as to Board of Pharmacy. 24 And how they follow up with the 25 prescribers I don't honestly know.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. Do you do a summary or some -- some</p> <p>2 type of forming reporting, or you just send</p> <p>3 kind of a packet of information?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 THE WITNESS: I'm not sure I</p> <p>6 understand your question.</p> <p>7 BY MR. CHEFFO:</p> <p>8 Q. Do you know how -- what the -- the</p> <p>9 process is in order to make a formal referral</p> <p>10 or -- or filing with the Board of Pharmacy, or</p> <p>11 does someone else do that in your office?</p> <p>12 A. Somebody else in my office will do</p> <p>13 that. We contact the investigative unit. I'm</p> <p>14 familiar with the process to some extent. We</p> <p>15 contact the investigative unit and refer names</p> <p>16 of individuals who have five or more</p> <p>17 prescribers in a 12-month period to them for</p> <p>18 follow-up.</p> <p>19 Q. Do you know if they interview any --</p> <p>20 you or anyone in your office?</p> <p>21 "They" meaning the Board of</p> <p>22 Pharmacy -- do they -- is it their practice to</p> <p>23 come back and either ask to speak with someone</p> <p>24 personally or ask for additional documents or</p> <p>25 information?</p>	<p style="text-align: right;">Page 76</p> <p>1 So I don't -- I don't know for certain.</p> <p>2 Q. Do you know if any of the -- the</p> <p>3 doctors who have been referred in connection</p> <p>4 with a -- a decedent referral have been</p> <p>5 prosecuted?</p> <p>6 A. I'd have to say, again, I don't</p> <p>7 follow up with them. And I haven't received</p> <p>8 that feedback from them. So I don't know.</p> <p>9 MR. BADALA: We've been going</p> <p>10 about over an hour.</p> <p>11 MR. CHEFFO: Yeah.</p> <p>12 MR. BADALA: Good time to take a</p> <p>13 break?</p> <p>14 MR. CHEFFO: Can I ask one more</p> <p>15 question, and then we'll --</p> <p>16 MR. BADALA: Yeah. Sure.</p> <p>17 MR. CHEFFO: -- do that?</p> <p>18 MR. BADALA: Is that okay, Dr.</p> <p>19 Gilson?</p> <p>20 THE WITNESS: Yeah. It's fine with</p> <p>21 me.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. And am I -- is it correct that --</p> <p>24 that, even though you make a referral, you</p> <p>25 would agree that there could -- upon further</p>
<p style="text-align: right;">Page 75</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 THE WITNESS: Personally they have</p> <p>3 not approached me. I can't speak for the rest</p> <p>4 of the office. I don't know for certain.</p> <p>5 BY MR. CHEFFO:</p> <p>6 Q. Are you aware of any situation that</p> <p>7 you can recall where they asked for additional</p> <p>8 information, either a verbal interview or</p> <p>9 subsequent documentation?</p> <p>10 A. I don't know. A lot of our</p> <p>11 documents, like autopsies records and things,</p> <p>12 are public. And I don't know if we've</p> <p>13 furnished them or not.</p> <p>14 Q. Do you know anything about what the</p> <p>15 Board of Pharmacy does after you make a</p> <p>16 referral?</p> <p>17 A. No. I haven't pursued that.</p> <p>18 Q. Do you know if any doctor that has</p> <p>19 been referred in connection with a referral to</p> <p>20 a Board of Pharmacy has lost his or her</p> <p>21 license?</p> <p>22 A. I don't get that follow-up from the</p> <p>23 Board of Pharmacy. And I haven't asked about</p> <p>24 it. I -- I'm just trying to keep our heads</p> <p>25 above water with our own part of the crisis.</p>	<p style="text-align: right;">Page 77</p> <p>1 investigation and looking at all the facts,</p> <p>2 that -- that it could be that various doctors</p> <p>3 had appropriately and lawfully prescribed</p> <p>4 various medicines, controlled substances, to a</p> <p>5 patient, or they may not have, right?</p> <p>6 MR. BADALA: Objection to form.</p> <p>7 THE WITNESS: Again, it's their</p> <p>8 investigation. So I can only say in a general</p> <p>9 way we're just putting these individuals on</p> <p>10 their radar. And how they make those</p> <p>11 determinations, I don't know.</p> <p>12 But if you're asking me is it</p> <p>13 possible they may investigate somebody and say,</p> <p>14 "Really not anything here," I would think so.</p> <p>15 MR. CHEFFO: Okay. All right.</p> <p>16 Let's -- let's take a short break.</p> <p>17 THE VIDEOGRAPHER: We are going off</p> <p>18 the record.</p> <p>19 This is the end of Media Unit No. 1.</p> <p>20 The time is 10:22.</p> <p>21 (A short recess was taken.)</p> <p>22 THE VIDEOGRAPHER: We're going back</p> <p>23 on the record.</p> <p>24 This is the start of Media Unit No.</p> <p>25 2.</p>

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1 The time is 10:36.  
 2 You may proceed, Counsel.  
 3 MR. CHEFFO: Thank you.  
 4 BY MR. CHEFFO:  
 5 Q. Dr. Gilson, is there any testimony  
 6 that you've given that you'd like to modify or  
 7 amend up until this point?  
 8 A. No, sir.  
 9 Q. You mentioned referrals, in your  
 10 professional capacity, to the Board of  
 11 Pharmacy.  
 12 Do you recall that?  
 13 A. Yes, I do.  
 14 Q. What does the Board of Pharmacy do,  
 15 and what does it have jurisdiction over?  
 16 MR. BADALA: Objection to form.  
 17 THE WITNESS: I don't know the  
 18 specific answers to those questions.  
 19 BY MR. CHEFFO:  
 20 Q. Do you know why you've made  
 21 referrals to that particular organization?  
 22 A. As I understand it, there is a state  
 23 agency that's tasked with the investigation of  
 24 irregularities in prescribing.  
 25 Q. Are you aware of whether there's

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1 a -- a Board of Medicine in the state?  
 2 A. Yes, I am.  
 3 Q. And how many times have you  
 4 personally made referrals to the Board of  
 5 Medicine in connection with doctor shopping or  
 6 any prescriptions that you believed were  
 7 questionable?  
 8 MR. BADALA: Objection to form.  
 9 THE WITNESS: I don't know.  
 10 BY MR. CHEFFO:  
 11 Q. Ever?  
 12 A. I don't know.  
 13 Q. You wouldn't --  
 14 A. As I say, we've done the referrals  
 15 to the Board of Pharmacy. Whether there was a  
 16 report to the Board of Medicine, I just don't  
 17 know.  
 18 Q. Well, let me -- do -- do you have  
 19 any recollection, as you sit here today, of  
 20 ever making a referral to the Board of  
 21 Medicine?  
 22 A. No. I don't know if we did or not.  
 23 Q. Do you have a recollection?  
 24 A. I believe I answered your question.  
 25 Q. Well, you said you don't know. And

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1 I'm asking if --  
 2 A. No.  
 3 Q. -- you have a recollection.  
 4 A. I'm sorry. I said no, I don't  
 5 remember.  
 6 Q. Okay. And do you have any  
 7 recollection of anyone at the Office of the  
 8 Medical Examiner ever referring anyone to the  
 9 Board of Medicine?  
 10 MR. BADALA: Objection to form.  
 11 THE WITNESS: Any referral? I don't  
 12 remember.  
 13 BY MR. CHEFFO:  
 14 Q. And do you -- how many times have  
 15 you made a referral to law enforcement for  
 16 questions you had about doctor shopping or  
 17 healthcare providers who have engaged in  
 18 inappropriate prescribing?  
 19 MR. BADALA: Objection to form.  
 20 THE WITNESS: Are we considering the  
 21 investigative unit of Board of Pharmacy, a law  
 22 enforcement agency or --  
 23 BY MR. CHEFFO:  
 24 Q. No. Other than the Board of  
 25 Pharmacy.

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1 A. Referrals to law enforcement I -- I  
 2 don't remember. Sometimes they've -- have come  
 3 to us with concerns about a prescriber. But us  
 4 going back to them with regard to prescribing,  
 5 I don't remember any instances. We would have  
 6 used to Board of Pharmacy.  
 7 Q. Can you remember at all ever doing  
 8 that or anyone in your office doing that?  
 9 A. Doing --  
 10 Q. Making a referral to law enforcement  
 11 for the Board of Pharmacy.  
 12 MR. BADALA: Objection to form.  
 13 THE WITNESS: Making a referral to  
 14 the --  
 15 BY MR. CHEFFO:  
 16 Q. Law enforcement.  
 17 A. -- law enforcement for Board of  
 18 Pharmacy?  
 19 Q. Or the Board of Pharma -- or -- or  
 20 the Board Medicine.  
 21 MR. BADALA: Objection to form.  
 22 THE WITNESS: No. We used the Board  
 23 of Pharmacy. As I say, law enforcement might  
 24 have contacted us about a concern. But we  
 25 weren't reaching back to them for our

<p style="text-align: right;">Page 82</p> <p>1 identified decedents.</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. Where would you look if you wanted</p> <p>4 to see if there was ever report of any referral</p> <p>5 to law enforcement in connection with a</p> <p>6 physician or potentially inappropriate</p> <p>7 prescribing?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 THE WITNESS: There are, you know,</p> <p>10 50-plus law enforcement agencies in the county.</p> <p>11 I -- again, I don't know how we would track</p> <p>12 that. I just don't know.</p> <p>13 BY MR. CHEFFO:</p> <p>14 Q. Okay. That's not my question,</p> <p>15 Doctor. I'm sorry if it was a bad one.</p> <p>16 You told us earlier that -- that</p> <p>17 your department kept track of referrals to the</p> <p>18 Board of Pharmacy.</p> <p>19 Remember that?</p> <p>20 MR. BADALA: Objection to form.</p> <p>21 THE WITNESS: Yes, I do.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. And what I'm trying to find out, is</p> <p>24 there any way that -- anywhere that, to the</p> <p>25 extent that it occurred, we would find records</p>	<p style="text-align: right;">Page 84</p> <p>1 A. My first point of contact would be</p> <p>2 the operations chief, who does the bulk of</p> <p>3 reports to Board of Pharmacy to see if there</p> <p>4 were other referrals that were made.</p> <p>5 Q. Has that -- who is that person?</p> <p>6 A. Hugh Shannon.</p> <p>7 Q. Okay. How long has Hugh -- Mr.</p> <p>8 Shannon or Dr. Shannon been in that position?</p> <p>9 A. Mr. Shannon. He --</p> <p>10 Q. Mr. Shannon.</p> <p>11 A. Yeah. He'd like to be Dr. Shannon</p> <p>12 sometimes.</p> <p>13 He and I came about the same time in</p> <p>14 2011. He was there I think about a week or two</p> <p>15 ahead of me.</p> <p>16 Q. In your review of -- in your autopsy</p> <p>17 work, have you ever raised, in your own mind, a</p> <p>18 question about whether a prescriber had</p> <p>19 violated a standard of care in connection with</p> <p>20 prescription of controlled substances?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: Raised -- I -- I --</p> <p>23 sorry if I'm not understanding your question.</p> <p>24 Raised a concern to whom?</p> <p>25 BY MR. CHEFFO:</p>
<p style="text-align: right;">Page 83</p> <p>1 of referrals from your agency -- from your</p> <p>2 office to either the Board of Medicine or to a</p> <p>3 law enforcement agency.</p> <p>4 A. I don't know.</p> <p>5 Q. Who would you ask if you wanted to</p> <p>6 find out if that ever occurred?</p> <p>7 A. I'm really not sure. I -- I think,</p> <p>8 you know, the Board of Medicine, the law</p> <p>9 enforcement agencies. My operations chief may</p> <p>10 track that. I don't personally.</p> <p>11 Q. Well, you're not aware of -- you</p> <p>12 can't recall it ever happening, right?</p> <p>13 A. I don't know if it happened or not.</p> <p>14 Q. Right.</p> <p>15 But in your personal knowledge, you</p> <p>16 -- you're not aware of any instance; you can't</p> <p>17 think of any instance when it happened, right?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 THE WITNESS: Not as I sit here</p> <p>20 today, no.</p> <p>21 BY MR. CHEFFO:</p> <p>22 Q. And to the extent that you wanted to</p> <p>23 know if there were documents reflecting a</p> <p>24 referral, who would you ask, and where would</p> <p>25 you go within your own office?</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. To you.</p> <p>2 A. Could I just get the question again.</p> <p>3 I --</p> <p>4 Q. Sure. Well, let's use an example.</p> <p>5 You told us earlier that you had a</p> <p>6 specific example or memory of a case where you</p> <p>7 believe there was presumably a high level of</p> <p>8 morphine equivalence being prescribed, and you</p> <p>9 made a referral.</p> <p>10 Do you remember that?</p> <p>11 A. This is the lady who was falling</p> <p>12 asleep eating and --</p> <p>13 Q. Yes.</p> <p>14 A. -- those -- yeah. Okay.</p> <p>15 Q. And -- and I take it one of the</p> <p>16 reasons why you made that referral is that you</p> <p>17 questioned the standard of care that was being</p> <p>18 given by that decedent's healthcare provider.</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 THE WITNESS: Again, I -- my concern</p> <p>21 was the -- the symptoms I was seeing suggested</p> <p>22 overmedication. And that's why I made the</p> <p>23 referral --</p> <p>24 BY MR. CHEFFO:</p> <p>25 Q. Is overmedication --</p>

<p style="text-align: right;">Page 86</p> <p>1 A. -- after we took a look at the OARRS</p> <p>2 data on the --</p> <p>3 Q. Is overmedication a breach of a</p> <p>4 standard of care?</p> <p>5 A. I don't know.</p> <p>6 Q. You're a doctor.</p> <p>7 Isn't -- isn't it?</p> <p>8 A. I don't prescribe. And I really</p> <p>9 don't do a lot of that kind of medicine. So I</p> <p>10 don't really know what the state's, you know,</p> <p>11 ruling on standard of care would be there. But</p> <p>12 --</p> <p>13 Q. Okay. So you're not an expert on</p> <p>14 the standard of care for prescribing opioids or</p> <p>15 other controlled substances, fair?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 THE WITNESS: I don't do it. So I</p> <p>18 wouldn't have the experience. I have education</p> <p>19 about opioids. But the prescribing of them I</p> <p>20 haven't done in a very long time. So I'd have</p> <p>21 to say I -- I don't know.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. And in your personal experience in</p> <p>24 your capacity in the office since you've been</p> <p>25 here in 2011, have you ever made a</p>	<p style="text-align: right;">Page 88</p> <p>1 A. My license is issued I -- by the</p> <p>2 Board of Medicine, and I think they regulate</p> <p>3 it.</p> <p>4 Q. Do you believe that they could</p> <p>5 regulate the standard of care or -- or gross</p> <p>6 violations of the standard of care?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 THE WITNESS: I don't know that with</p> <p>9 certainty. I don't know who does that function</p> <p>10 in the state.</p> <p>11 BY MR. CHEFFO:</p> <p>12 Q. We talked a little bit earlier about</p> <p>13 cocaine use in Cuyahoga County.</p> <p>14 Do you remember that?</p> <p>15 A. Yeah. Yes, I do.</p> <p>16 Q. And correct me if I'm wrong, but</p> <p>17 I -- I thought I understood you to say, Doctor,</p> <p>18 that after 2016 there was an increase from the</p> <p>19 baseline in cocaine overdose deaths.</p> <p>20 A. And the absolute number and the</p> <p>21 increase was related to fentanyl mixtures. And</p> <p>22 the baseline of cocaine, in absence of fentanyl</p> <p>23 and opioids, had remained flat. It hadn't</p> <p>24 changed dramatically.</p> <p>25 Q. What was the baseline; do you</p>
<p style="text-align: right;">Page 87</p> <p>1 determination -- a personal determination that</p> <p>2 a doctor violated the standard of care in</p> <p>3 connection with prescribing controlled</p> <p>4 substances?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 THE WITNESS: It's not something our</p> <p>7 agency would do. So my answer is no.</p> <p>8 BY MR. CHEFFO:</p> <p>9 Q. Who is authorized or empowered</p> <p>10 within Cuyahoga County or the state to</p> <p>11 determine whether a doctor breached the</p> <p>12 standard of care in connection with</p> <p>13 prescribing?</p> <p>14 MR. BADALA: Objection to form.</p> <p>15 THE WITNESS: I don't know for</p> <p>16 certain.</p> <p>17 BY MR. CHEFFO:</p> <p>18 Q. You're a licensed physician in the</p> <p>19 state, correct?</p> <p>20 A. Yes, I am.</p> <p>21 Q. Do you have an understanding of what</p> <p>22 entity or entities regulates your licensure</p> <p>23 here?</p> <p>24 A. Yes.</p> <p>25 Q. Who?</p>	<p style="text-align: right;">Page 89</p> <p>1 remember?</p> <p>2 A. Going back again to 2006, we tended</p> <p>3 to see about a hundred deaths from cocaine in</p> <p>4 any given year. It may have fluctuated some on</p> <p>5 either side of that, but that was about an</p> <p>6 average.</p> <p>7 Q. And in 2016 that changed?</p> <p>8 A. Yes, it did.</p> <p>9 Q. And in 2016 the number of deaths</p> <p>10 that were -- strike that.</p> <p>11 In 2016 the number of overdose</p> <p>12 deaths where the decedent had cocaine and</p> <p>13 fentanyl in their system increased; is that</p> <p>14 right?</p> <p>15 A. Yes. That's true.</p> <p>16 Q. And what was the number, in 2016</p> <p>17 till today, of cocaine deaths?</p> <p>18 A. Till today, I -- I don't know. I</p> <p>19 remember in 2016 it was over 200. So it had</p> <p>20 nearly doubled. It rose again in 2017.</p> <p>21 And again, the baseline of cocaine</p> <p>22 deaths without fentanyl remains somewhere in</p> <p>23 the area of a hundred.</p> <p>24 Q. So the -- you attributed the hundred</p> <p>25 additional deaths with cocaine and fentanyl to</p>

<p style="text-align: right;">Page 90</p> <p>1 a combination of fentanyl and cocaine?</p> <p>2 A. Those deaths were certified as</p> <p>3 cocaine and fentanyl or whatever drug, if it</p> <p>4 was heroin, present. Obviously cocaine got</p> <p>5 mentioned on the death certificate, but they</p> <p>6 were mixed intoxications.</p> <p>7 Q. And prior to that, the baseline you</p> <p>8 attributed to cocaine and not to fentanyl, is</p> <p>9 that right, or heroin?</p> <p>10 A. There may have been mixed</p> <p>11 intoxications, but they weren't a big player n</p> <p>12 near that number, that baseline of a hundred or</p> <p>13 so deaths that we saw from -- I -- at least</p> <p>14 going back as far as 2006 with cocaine deaths.</p> <p>15 Q. Did the baseline increase in 2016 or</p> <p>16 just the combination of -- of drugs increase?</p> <p>17 A. By "baseline" I would mean cocaine</p> <p>18 in the absence of fentanyl. And that did not</p> <p>19 increase in 2016 or '17 substantially. I don't</p> <p>20 remember exact numbers, but it stayed around a</p> <p>21 hundred. And the increase that we saw was</p> <p>22 largely being pulled up by fentanyl. I can't</p> <p>23 say with certainty that there wasn't a cocaine</p> <p>24 and heroin death in there. But the bulk of the</p> <p>25 mixtures that we were seeing were cocaine and</p>	<p style="text-align: right;">Page 92</p> <p>1 But based on, you know, pending</p> <p>2 cases, we -- we were able the say with</p> <p>3 confidence -- and we had a press conference to</p> <p>4 this effect -- that the numbers are going down.</p> <p>5 But I don't remember the exact</p> <p>6 numbers. And I wouldn't want to offer</p> <p>7 percentages until we had final data.</p> <p>8 BY MR. CHEFFO:</p> <p>9 Q. Well, what -- what is -- I -- you --</p> <p>10 you obviously looked into this before you held</p> <p>11 a press conference, right?</p> <p>12 A. Sure.</p> <p>13 Q. And when --</p> <p>14 A. Absolutely.</p> <p>15 Q. -- when was that?</p> <p>16 A. It was a Friday, not this past</p> <p>17 Friday but the week before that. January 6th?</p> <p>18 I don't -- I don't -- whatever that Friday</p> <p>19 was --</p> <p>20 Q. I take it, before you --</p> <p>21 A. -- right --</p> <p>22 Q. -- would go out and hold a press</p> <p>23 conference, you wanted to make sure that you</p> <p>24 had some type of significant decline to report</p> <p>25 on.</p>
<p style="text-align: right;">Page 91</p> <p>1 fentanyl.</p> <p>2 Q. I take it you track and have tracked</p> <p>3 data for 2018; is that right?</p> <p>4 A. We're still finishing cases. But we</p> <p>5 track consistently throughout the year, yes.</p> <p>6 Q. Where have overdose deaths gone in</p> <p>7 2018 --</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 BY MR. CHEFFO:</p> <p>10 Q. -- in Cuyahoga County?</p> <p>11 A. Our preliminary data -- again, I</p> <p>12 have to say we'll probably not have all of our</p> <p>13 data in for three or four months, I would say.</p> <p>14 But our preliminary data indicates</p> <p>15 that drug overdose deaths in general have</p> <p>16 declined, fortunately. Fentanyl deaths have</p> <p>17 declined. Heroin deaths have declined. And</p> <p>18 cocaine deaths have declined.</p> <p>19 Q. What percentages?</p> <p>20 Can you give us any rough estimates</p> <p>21 as to the percentage of decline?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 THE WITNESS: I don't remember. And</p> <p>24 I'd almost be reluctant to say so until we have</p> <p>25 all the numbers.</p>	<p style="text-align: right;">Page 93</p> <p>1 Isn't that fair?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 THE WITNESS: We reported the</p> <p>4 decline based on our projections for the year.</p> <p>5 And that was a downward trend.</p> <p>6 BY MR. CHEFFO:</p> <p>7 Q. And what was the -- what was the</p> <p>8 percentage downward trend?</p> <p>9 A. For total overdoses, based on our</p> <p>10 current projection, we thought that that number</p> <p>11 would come in somewhere around 560 deaths, down</p> <p>12 from 727. I can get the calculator out to give</p> <p>13 you a percentage.</p> <p>14 But that's our total overdose</p> <p>15 deaths. And I do not remember specific numbers</p> <p>16 for fentanyl, cocaine and heroin other that</p> <p>17 they were trending downward.</p> <p>18 Q. And do you remember roughly what the</p> <p>19 percentage decline was in 2018 from 725 to 560?</p> <p>20 I'm not trying to question -- I'm</p> <p>21 not trying to make you do higher math off</p> <p>22 the --</p> <p>23 A. Can we get a calculator out?</p> <p>24 Q. But -- but do you remember, when you</p> <p>25 were doing a press conference, using that as a</p>

<p style="text-align: right;">Page 94</p> <p>1 talking point?</p> <p>2 A. I don't remember using the</p> <p>3 percentage. I remember using the numbers in a</p> <p>4 general way.</p> <p>5 (Discussion held off the</p> <p>6 stenographic record.)</p> <p>7 MR. CHEFFO: We'll come -- we'll --</p> <p>8 we'll look at a calculator, Doctor, and -- and</p> <p>9 see if we can figure it out. But...</p> <p>10 THE WITNESS: Now, your denominator</p> <p>11 is 727, not 560, so we agree on terms. Because</p> <p>12 it's a decline we're measuring.</p> <p>13 BY MR. CHEFFO:</p> <p>14 Q. The percentage. That's what I was</p> <p>15 asking you, what percentage year over year</p> <p>16 decline.</p> <p>17 A. But I want to make sure that what</p> <p>18 we're calculating is the decline, which would</p> <p>19 be define as the difference between 2017 and</p> <p>20 2018 over the rate in 2017, not 2018.</p> <p>21 Q. Okay. Well, I'll ask you a</p> <p>22 question. You'll then tell me if you agree</p> <p>23 with it once we get the information.</p> <p>24 A. Well, I can get my phone out and do</p> <p>25 that calculation.</p>	<p style="text-align: right;">Page 96</p> <p>1 carfentanil -- to get the influx of those drugs</p> <p>2 into this country curtailed took place over</p> <p>3 that time.</p> <p>4 I think we instituted mandatory</p> <p>5 checks for OARRS in 2015 so that people</p> <p>6 prescribing opioids would have to check the</p> <p>7 database ahead of time before they would</p> <p>8 prescribe. It had been -- may have had an</p> <p>9 impact.</p> <p>10 There's a -- a tremendous number of</p> <p>11 programs the county's tried to do. the drug</p> <p>12 drop boxes for people to put their old</p> <p>13 medications back in may have had an impact.</p> <p>14 Law enforcement and the task forces, the</p> <p>15 prosecution of these cases potentially may have</p> <p>16 had an impact.</p> <p>17 I -- I don't want to pretend to</p> <p>18 know, you know, all of these. These are the</p> <p>19 programs that have been undertaken in</p> <p>20 response -- some of the programs that have been</p> <p>21 taken -- undertaken in response to try to</p> <p>22 address the crisis.</p> <p>23 And I certainly would like to think</p> <p>24 they're having some success.</p> <p>25 Q. Is it fair to say that there are</p>
<p style="text-align: right;">Page 95</p> <p>1 MR. BADALA: We can --</p> <p>2 THE WITNESS: I just want to make</p> <p>3 sure we're on the same page with that.</p> <p>4 BY MR. CHEFFO:</p> <p>5 Q. The -- does -- does 23 percent sound</p> <p>6 right?</p> <p>7 Well, I'll you what. You know, if</p> <p>8 you're any more comfortable at the break, you</p> <p>9 can --</p> <p>10 A. Yeah.</p> <p>11 Q. -- use your calculator, and you can</p> <p>12 tell me what you think it is.</p> <p>13 A. Okay.</p> <p>14 Q. Okay?</p> <p>15 And what -- what factors do you</p> <p>16 believe led to the decline in overdose deaths</p> <p>17 from 727 to 560?</p> <p>18 A. I'm not sure. I think, you know,</p> <p>19 the programs that have been instituted with</p> <p>20 regard to Naloxone distribution have saved</p> <p>21 lives.</p> <p>22 The scheduling of the fentanyl and</p> <p>23 fentanyl analogs, I am told there were</p> <p>24 negotiations with China, which was a principal</p> <p>25 source of fentanyl, to get the -- and</p>	<p style="text-align: right;">Page 97</p> <p>1 many different factors that impact the overdose</p> <p>2 rate?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 THE WITNESS: I'm not sure I --</p> <p>5 well, it's kind of a broad question.</p> <p>6 BY MR. CHEFFO:</p> <p>7 Q. Well, you just -- you just listed</p> <p>8 about ten of them: drop boxes, changes in</p> <p>9 OARRS, impact from foreign --</p> <p>10 A. Oh, yeah.</p> <p>11 Q. -- government shipping.</p> <p>12 A. I'm sorry. Yeah. Fine. Yes.</p> <p>13 Q. So the answer is "yes," right?</p> <p>14 A. Yes.</p> <p>15 (Deposition Exhibit 1 was marked for</p> <p>16 identification.)</p> <p>17 BY MR. CHEFFO:</p> <p>18 Q. Doctor, I've marked this as Exhibit</p> <p>19 1.</p> <p>20 Have you seen this before?</p> <p>21 A. I don't remember.</p> <p>22 Can I take a look through?</p> <p>23 Q. Uh-huh. Sure.</p> <p>24 A. I don't remember it exactly. But</p> <p>25 it's a product from our office, so I'm familiar</p>

<p style="text-align: right;">Page 98</p> <p>1 with it.</p> <p>2 Q. And your name's on the front page,</p> <p>3 right?</p> <p>4 A. That's right.</p> <p>5 Q. Would you look at the fourth page,</p> <p>6 please.</p> <p>7 A. This -- this one.</p> <p>8 Q. Yes.</p> <p>9 A. Sure.</p> <p>10 Q. It says "Cuyahoga County Overdose</p> <p>11 Deaths 2006 to 2014."</p> <p>12 Do you see that?</p> <p>13 A. Yes, I do.</p> <p>14 Q. And it says "Most Common Drugs,"</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And is that the most common drugs</p> <p>18 found in individuals who died from overdoses in</p> <p>19 the years 2006 to 2014?</p> <p>20 A. Yes, it is.</p> <p>21 Q. And before I ask you specific</p> <p>22 questions about this, let me just ask you a few</p> <p>23 questions about how you make that</p> <p>24 determination.</p> <p>25 So when someone has an autopsy done</p>	<p style="text-align: right;">Page 100</p> <p>1 detection beyond which we would say, if it's</p> <p>2 under that, we did not detect it. And</p> <p>3 that's -- refers to the sensitivity of the</p> <p>4 instrument and possibility of interference.</p> <p>5 But caffeine is an example where, if we have a</p> <p>6 positive at a certain level, we don't</p> <p>7 quantitate it because it's consistent with</p> <p>8 somebody drinking a cup of coffee.</p> <p>9 People have overdosed on caffeine</p> <p>10 though, and we've quantitated those.</p> <p>11 Q. Okay.</p> <p>12 A. So some are qualitative, I guess,</p> <p>13 some of our results; some are quantitative.</p> <p>14 Q. So these are the most common, but</p> <p>15 it's certainly not a exhaustive list of all</p> <p>16 the -- the -- the drugs that are found in -- in</p> <p>17 decedents, fair?</p> <p>18 A. That would be fair, yes.</p> <p>19 Q. And first let me just see if I -- if</p> <p>20 we're on the same page about this data. So for</p> <p>21 illustrative purposes, would you follow me and</p> <p>22 look at the -- the 2012 data that's on the</p> <p>23 bottom. And it says "310 cases."</p> <p>24 Do you see that?</p> <p>25 A. Yes. Okay.</p>
<p style="text-align: right;">Page 99</p> <p>1 and there's a toxicology report, do you</p> <p>2 identify -- try to identify all drugs or just</p> <p>3 look for certain drugs?</p> <p>4 A. We would try to identify all drugs.</p> <p>5 And, you know, I think one of the challenges</p> <p>6 is -- isn't necessarily -- they can find</p> <p>7 everything. So the assays are directed to</p> <p>8 certain drugs.</p> <p>9 But it's a very broad class of drugs</p> <p>10 that we're looking for. And once we identify</p> <p>11 something, we follow through to identify it.</p> <p>12 Q. But in fairness, I mean you're not</p> <p>13 trying to find if somebody took an Aspirin that</p> <p>14 morning, are you?</p> <p>15 A. Yeah. We are, actually.</p> <p>16 Q. Okay. So is there any threshold?</p> <p>17 A. Salicylates or acetaminophen or</p> <p>18 things like that.</p> <p>19 Q. Okay.</p> <p>20 A. Caffeine will pick up too.</p> <p>21 Q. Is there a threshold though?</p> <p>22 So will -- will -- if -- if someone</p> <p>23 had a cup of coffee that morning, will that</p> <p>24 trigger a threshold for caffeine reporting?</p> <p>25 A. Any test would have a limit of</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. And that -- am I correct that that</p> <p>2 means that there were 310 overdose deaths in</p> <p>3 the year 2012?</p> <p>4 A. Yes. That's right.</p> <p>5 Q. And then there are various numbers</p> <p>6 associated with the various drugs that are</p> <p>7 listed on this chart for each year, correct?</p> <p>8 A. Yes. Okay.</p> <p>9 Q. And -- and the -- in 2012 there's</p> <p>10 161 next to the heroin point on the -- on the</p> <p>11 graph, right?</p> <p>12 A. That's right, yes.</p> <p>13 Q. And that -- and heroin is the</p> <p>14 highest -- or it's the most common drug in --</p> <p>15 in 2012, right?</p> <p>16 A. That's right.</p> <p>17 Q. And then the second most common is</p> <p>18 cocaine; that has 111, right?</p> <p>19 A. Yes.</p> <p>20 Q. And then below that it says "All</p> <p>21 Opioids," and that's 85, right?</p> <p>22 A. That's right.</p> <p>23 Q. And that's about half as much as</p> <p>24 cocaine -- heroin, right?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 102</p> <p>1 Q. And it says "All Opioids Including 2 oxycodone and fentanyl." 3 Do you see that? 4 A. Yes, I do. 5 Q. What else does "all opioids" 6 include? 7 A. Other drugs that have a similar 8 effect to the opioids or just the ones that act 9 on the mu receptor in the brain. So opioids 10 would include oxycodone, hydrocodone, 11 oxymorphone, hydromorphone, methadone, any 12 number of drugs. 13 Q. It would include methadone as well? 14 A. Yes. 15 Q. And -- and what is methadone 16 typically used for? 17 A. It was traditionally used as a drug 18 for people who were tapering off of heroin 19 addiction. And it also became used more 20 recently as a medication for the treatment of 21 chronic pain. 22 Q. And if we wanted to know and break 23 out how many of those 85 in the All Opioid 24 category were associated with methadone, I take 25 it you have records that would be able to do</p>	<p style="text-align: right;">Page 104</p> <p>1 I would be concerned about fentanyl especially 2 in 2014. Because that's the year that we 3 started to see more illicitly manufactured 4 fentanyl show up in our area. But the All 5 Opioids would be drugs we would think of as 6 opioid pain relievers, the prescription 7 opioids. 8 Q. So when it says 85, we're -- 9 you're -- you're certain it's your testimony 10 that all of these were prescriptions, and they 11 weren't street drugs? 12 A. They may have been diverted to the 13 street. I'd -- if -- but as I understand this 14 number, it's the prescription opioids. 15 Q. When you do a -- a -- a tox assay or 16 screening and you find fentanyl, can you 17 determine whether it's a prescription fentanyl 18 or an illicit fentanyl that was never 19 manufactured lawfully by a pharma company? 20 A. We have seen impurities in fentanyl 21 that don't usually show up in the manufacturing 22 process, which suggests a illicit source. But 23 I can't point to the fentanyl itself, that 24 molecule, and say that's illicit or not. 25 Q. So then how is it that you can tell</p>
<p style="text-align: right;">Page 103</p> <p>1 that; is that right? 2 A. Yes. We would be able to do that. 3 We can't do it here as I sit here today, but we 4 would be able to do that. 5 Q. As a general matter, you know, based 6 on your expertise and experience, what 7 percentage of the All Opioid number is 8 comprised of methadone? 9 MR. BADALA: Objection to form. 10 THE WITNESS: We looked at that over 11 this time frame, and there were fluctuations. 12 I couldn't give you a specific number though. 13 I don't know. 14 BY MR. CHEFFO: 15 Q. Can you give me a ballpark? 16 A. I wouldn't want to, no. 17 Q. Is it, you know, 50 percent? 20 18 percent? 19 A. I don't remember. 20 Q. Is there any way to determine from 21 this chart whether these are -- at least unto 22 the opioids, whether they are prescription 23 opioids or whether they are associated with 24 illicit opioids? 25 A. These would be prescription opioids.</p>	<p style="text-align: right;">Page 105</p> <p>1 us with certainty that all 85 of those are from 2 prescription opioids? 3 A. I'm sorry if I said I -- I just said 4 I don't know. I'd have to go back and look at 5 the actual data. 6 Q. No. I think you told me -- 7 A. But -- 8 Q. -- that they were prescriptions. 9 That's what I was asking you. 10 A. They would be the prescription 11 narcotics. They -- that was how we were 12 classifying them, that class of drugs. 13 Q. Right. 14 But you just told me ten seconds ago 15 that this could include fentanyl that was 16 synthetic that was never a prescription drug. 17 A. No. I said that about 2014. We 18 really didn't see fentanyl as illicitly 19 manufactured fentanyl in our laboratory -- in 20 our drug seize laboratory before 2014. And 21 that was when the DEA made their report about a 22 rise in seizures of illicitly manufactured 23 fentanyl. 24 So fentanyl in 2012, again, to the 25 best of my knowledge, would be some fentanyl</p>

<p style="text-align: right;">Page 106</p> <p>1 patch or fentanyl -- pharmaceutical fentanyl.</p> <p>2 We didn't see it --</p> <p>3 Q. So --</p> <p>4 A. -- clearly --</p> <p>5 Q. -- your testimony is you're --</p> <p>6 you're -- you're certain that all 85 are either</p> <p>7 lawful or diverted prescriptions in the All</p> <p>8 Opioid?</p> <p>9 That's your testimony?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 THE WITNESS: I -- I -- I'd have to</p> <p>12 see the data to be more certain. But that's my</p> <p>13 understanding of what we were tracking under</p> <p>14 All Opioids.</p> <p>15 BY MR. CHEFFO:</p> <p>16 Q. What would you need to look at to</p> <p>17 determine whether you were correct or not?</p> <p>18 A. I'd like to look at the case files</p> <p>19 on this and review before I made a statement</p> <p>20 with certainty.</p> <p>21 Q. And what would you look for in the</p> <p>22 case files?</p> <p>23 A. What drugs were present; was there</p> <p>24 any indication from scene investigation that</p> <p>25 there may have been an illicit source. I</p>	<p style="text-align: right;">Page 108</p> <p>1 certainty.</p> <p>2 Q. And could you tell that by going</p> <p>3 back to your files?</p> <p>4 A. I think it would bolster my ability</p> <p>5 to be certain about that, yes.</p> <p>6 Q. And you would look for what?</p> <p>7 If we looked for each -- if we</p> <p>8 looked at the files for each of these 85</p> <p>9 people, and we wanted to know whether or not</p> <p>10 the opioids found in their system were from</p> <p>11 either lawful or -- or diverted prescriptions,</p> <p>12 what would you look for?</p> <p>13 A. It's a case specific. I'd -- you</p> <p>14 know, we'd look for whether there were</p> <p>15 impurities that we had seen in the synthetic</p> <p>16 process later with fentanyl. But -- whether</p> <p>17 there was anything recovered at the scene in</p> <p>18 terms of medications or illicit substances and</p> <p>19 how they were tested. The OARRS report may be</p> <p>20 helpful to see if the person had access to</p> <p>21 these already, as they frequently would have in</p> <p>22 that time frame.</p> <p>23 Those would be some things I would</p> <p>24 at least want to consider before I said with</p> <p>25 certainty that none of these are anything but</p>
<p style="text-align: right;">Page 107</p> <p>1 think, you know, Thera-Mist for this would be</p> <p>2 just, you know, beneficial.</p> <p>3 Q. Right.</p> <p>4 A. A good practice.</p> <p>5 Q. So you really couldn't make any</p> <p>6 statement or testimony with certainty without</p> <p>7 looking at the case files to determine if, in</p> <p>8 fact, there were other indicia of illicit drugs</p> <p>9 or whether someone had a prescription bottle</p> <p>10 next to them when they expired, right?</p> <p>11 A. I can say that these drugs are the</p> <p>12 ones that we would classify as opioid pain</p> <p>13 relievers based on what drug is present.</p> <p>14 Q. Right. And that's a different</p> <p>15 question.</p> <p>16 What we've been talking about is</p> <p>17 whether all 85 are either opioids that were</p> <p>18 prescribed or whether they were diverted</p> <p>19 medicines from otherwise lawful prescriptions</p> <p>20 or whether some of them could have been from</p> <p>21 synthetic fentanyl that came in from China or</p> <p>22 Mexico.</p> <p>23 Can you tell that by looking at this</p> <p>24 chart?</p> <p>25 A. I wouldn't want to say that with</p>	<p style="text-align: right;">Page 109</p> <p>1 the prescriptions, either prescribed or</p> <p>2 diverted.</p> <p>3 Q. So is it your testimony that --</p> <p>4 well, let's start with today.</p> <p>5 Can we do a tox study and look at</p> <p>6 fentanyl and determine whether it was</p> <p>7 manufactured lawfully by a pharmaceutical</p> <p>8 company or whether it was created in some</p> <p>9 warehouse in China?</p> <p>10 A. Not that I'm aware of, no.</p> <p>11 Q. You told me you'd look for</p> <p>12 impurities.</p> <p>13 How would you then -- how would you</p> <p>14 find those impurities if they wouldn't show up</p> <p>15 in a tox study?</p> <p>16 A. Oh, I'm -- I'm thinking can I tell</p> <p>17 this fentanyl from that fentanyl. The</p> <p>18 impurities are part of the synthetic process,</p> <p>19 how you make the drug. And they are usually</p> <p>20 not present in the pharmaceutical-grade</p> <p>21 material, but they are present in the illicit</p> <p>22 manufacture.</p> <p>23 So one is a chemical called 4-ANPP.</p> <p>24 And we see that in our seized illicit</p> <p>25 manufactured fentanyl, but we don't see it in</p>

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1 pharmaceutical-grade fentanyl.  
 2 Q. And you test for that?  
 3 A. What's that?  
 4 Q. You test for that as part of your  
 5 tox study?  
 6 A. Yeah. We absolutely do.  
 7 Q. When did that start?  
 8 A. When fentanyl became a problem, I  
 9 think we were starting to invest in better  
 10 instrumentation. And I think we started to  
 11 detect that I would say probably in 2016.  
 12 We may have detected it earlier. I  
 13 don't know. It's not -- I just don't remember  
 14 that.  
 15 Q. Well --  
 16 A. But -- but certainly, with better  
 17 instrumentation, the availability to detected  
 18 some of these impurities went up.  
 19 Q. Well, you said when fentanyl became  
 20 a problem.  
 21 It looks to me like there was a --  
 22 there's a -- there's a high number in -- in --  
 23 was there a problem in -- in 2011 with  
 24 fentanyl?  
 25 A. It's present, you know, for eight

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1 overdoses. I don't think that number was  
 2 changing much over the previous few years.  
 3 Q. Eight overdoses or -- or --  
 4 A. I see eight fentanyl overdoses in  
 5 2011.  
 6 Q. Okay. So -- and that's fentanyl --  
 7 so -- so let me just see if I understand.  
 8 So the -- the -- the fentanyl line  
 9 is then -- those eight or whatever the number  
 10 is there, that's recounted in the All Opioid  
 11 line?  
 12 A. For this graph, yes, it is.  
 13 Q. Okay.  
 14 A. Subsequent to this, we generated  
 15 graphs where fentanyl was not calculated into  
 16 the opioid line. But this one it was.  
 17 Q. And can you tell who manufactures a  
 18 particular opioid based on a tox study?  
 19 A. No.  
 20 Q. So let's go back to the 2012 column,  
 21 if you will, please.  
 22 There was 310 cases of overdose  
 23 deaths in that year in Cuyahoga, correct?  
 24 A. Yes.  
 25 Q. And there's more -- if we -- if we

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1 were to add up -- and you free feel to do this.  
 2 But if there -- there's -- if you  
 3 add 161, 111, 85, 33, 26 and 10, that adds up  
 4 to more than 310, correct?  
 5 A. That's right, yes.  
 6 Q. And why is that?  
 7 A. The impact of mixed intoxications.  
 8 So we looked at this data, actually. And, as I  
 9 recall, about a third of our heroin overdoses  
 10 were only heroin. And then the other  
 11 two-thirds were in combination with something  
 12 else.  
 13 So we don't count -- we count  
 14 everything as often as it shows up. So for the  
 15 total, we can't do that, obviously. But the  
 16 total reflects individual drugs as well as  
 17 drugs in combination for mortality.  
 18 Q. So -- so there's a -- an element of  
 19 double counting in -- in this chart, right?  
 20 A. To reflect the mixtures we would  
 21 have seen in the drug overdose deaths, yes.  
 22 Q. So if -- if you had somebody who had  
 23 died of an overdose with three substances, for  
 24 example, let's say cocaine, fentanyl and  
 25 heroin, that one overdose from a -- would be

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1 counted three times.  
 2 A. In this graph, it would be in the  
 3 heroin line, in the cocaine line and in the  
 4 fentanyl line. That's right.  
 5 Q. Is it only in this graph, or do you  
 6 do that typically when you report other  
 7 statistics about heroin use or cocaine use?  
 8 MR. BADALA: Objection to form.  
 9 THE WITNESS: These graphs are  
 10 generated for each mention of those substances  
 11 on a death certificate. So we would count  
 12 mixtures more than once on these graphs to  
 13 reflect the usage of the different substances.  
 14 BY MR. CHEFFO:  
 15 Q. Do you make a determination as to  
 16 how much of each substance was in someone's  
 17 system?  
 18 A. The toxicology laboratory will  
 19 quantitate these substances where possible,  
 20 yes.  
 21 Q. Well, so let's assume, in my  
 22 hypothetical, someone had three substances,  
 23 right? They had heroin, cocaine and fentanyl.  
 24 Do you make a determination -- and  
 25 they're each listed, right, as -- from a

<p style="text-align: right;">Page 114</p> <p>1 statistics perspective in each of those.</p> <p>2 Do you make a determination about</p> <p>3 whether they received a lethal dose of any of</p> <p>4 those?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 THE WITNESS: Obviously they died,</p> <p>7 so I would say they received a lethal dose of</p> <p>8 the combination of them. It's not really</p> <p>9 possible in forensic practice to start to tease</p> <p>10 out this is 60 percent, this is 10 percent,</p> <p>11 this is 20 percent.</p> <p>12 It's a combined effect. And that's</p> <p>13 how our death certificates are worded.</p> <p>14 Combined toxicity, combined effect. You can't</p> <p>15 really tease out --</p> <p>16 MR. CHEFFO: Well --</p> <p>17 THE WITNESS: -- this contribution</p> <p>18 versus that one.</p> <p>19 BY MR. CHEFFO:</p> <p>20 Q. But it's not always combined, is it?</p> <p>21 Well, let me give you an example,</p> <p>22 right? I'm sure you could think of a hundred</p> <p>23 of them.</p> <p>24 Where someone had a modest dose use</p> <p>25 of cocaine, and then they had a modest</p>	<p style="text-align: right;">Page 116</p> <p>1 hypoxic, I don't get as much oxygen because of</p> <p>2 affects of fentanyl and heroin, it's going to</p> <p>3 make cocaine more lethal in that soup, if you</p> <p>4 will, of overdose.</p> <p>5 So you can't really tease them</p> <p>6 apart.</p> <p>7 BY MR. CHEFFO:</p> <p>8 Q. Do you do any of that analysis?</p> <p>9 Do you try to quantify any of that?</p> <p>10 Or do you just do a tox study and</p> <p>11 say, "This is what's in the system. It's going</p> <p>12 on the chart"?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 THE WITNESS: We interpret the</p> <p>15 toxicology with -- you know, in accordance with</p> <p>16 forensic practice, which would be what I'm</p> <p>17 describing.</p> <p>18 BY MR. CHEFFO:</p> <p>19 Q. Is there any -- is there -- is it</p> <p>20 fair to say that, if -- if cocaine, for</p> <p>21 example, or fentanyl show up in any amount on</p> <p>22 your assay, it's going to be listed as a cause</p> <p>23 or contributing factor?</p> <p>24 A. No.</p> <p>25 Q. So there are times when you've</p>
<p style="text-align: right;">Page 115</p> <p>1 nonlethal dose of fentanyl a day or two or</p> <p>2 however long it might last in their system, and</p> <p>3 then they had a massive dose of heroin that,</p> <p>4 irrespective of anything else, would have</p> <p>5 killed them.</p> <p>6 In that case, that's not a</p> <p>7 contribution, is it?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 THE WITNESS: Sure. It is. It</p> <p>10 certainly is, you know. And that's one of the</p> <p>11 discussions we've tried to have with, you know,</p> <p>12 our prosecutor, especially our U.S. Attorney.</p> <p>13 And we met with Carole Rendon about it.</p> <p>14 That becomes impossible for a</p> <p>15 medical examiner to tease out this is the</p> <p>16 problem, and this isn't. And that becomes very</p> <p>17 important in the prosecutions because of this</p> <p>18 idea of but-for causation.</p> <p>19 So if I can pick up on your example,</p> <p>20 if you have fentanyl, cocaine, heroin --</p> <p>21 fentanyl and heroin have similar actions, and</p> <p>22 they will be expected to potentiate each other.</p> <p>23 Cocaine has its own stimulant properties, but</p> <p>24 it's a cardiac irritant.</p> <p>25 So if I'm becoming more and more</p>	<p style="text-align: right;">Page 117</p> <p>1 recorded it and it doesn't show up as a factor</p> <p>2 in and overdose death?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 THE WITNESS: That wasn't your</p> <p>5 question, as I understood it.</p> <p>6 You know, toxicology is not a</p> <p>7 substitution for a death investigation. So</p> <p>8 there's other information that has to be</p> <p>9 factored into a death ruling. That could be</p> <p>10 scene information. It could be circumstance</p> <p>11 information. It could be a lot of other</p> <p>12 things.</p> <p>13 And, you know, we may have a</p> <p>14 positive toxicology that does not fit with the</p> <p>15 clinical scenario of how a person died, in</p> <p>16 which case that would not be included in a</p> <p>17 death certificate.</p> <p>18 BY MR. CHEFFO:</p> <p>19 Q. You're talking about like a gunshot</p> <p>20 wound.</p> <p>21 But I'm talking about --</p> <p>22 A. No, no. I --</p> <p>23 Q. -- let's talk about overdose deaths.</p> <p>24 A. -- I would talk -- let's say -- I'll</p> <p>25 give --</p>

<p style="text-align: right;">Page 118</p> <p>1 MR. BADALA: Are you done with your 2 answer? 3 THE WITNESS: No. Go ahead. I -- 4 BY MR. CHEFFO: 5 Q. So are there situations where 6 someone has had cocaine in their system in an 7 overdose death, and it's not been listed as a 8 cause or contributing factor? 9 Can you think of any? 10 A. I can't think of any right now. 11 Q. Are you aware of any? 12 A. I -- I don't know. 13 Q. Are you aware of any situations 14 where someone has had heroin in their system, 15 and it's not been listed as a cause or 16 contribution in and overdose death? 17 A. Yes. 18 Q. In what circumstances? 19 A. Well, if they have an older person 20 who suddenly grabs their chest, says, "Boy, I'm 21 very short of breath, and I'm collapsing," you 22 know, that's not the way people die from and 23 overdose of heroin. 24 They usually go to sleep; they stop 25 breathing; they don't wake up. And there have</p>	<p style="text-align: right;">Page 120</p> <p>1 policy of your office, any measure, no matter 2 how small or large, of an illicit substance, 3 that's going to automatically be deemed to be 4 causing or contributing; isn't that right? 5 A. No. 6 Q. So can you tell me any time where 7 that's not happened? 8 A. I can't give you a specific 9 instance. But what you're saying is basically, 10 whatever I see on a toxicology report, I put on 11 a death certificate. And that's really not 12 good forensic practice. 13 A death investigation is a lot more 14 than an autopsy report. And I don't think what 15 you said really characterizes the professional 16 judgment of my staff or me. 17 Q. Can you tell me one situation in -- 18 in your practice in Cuyahoga County where you 19 have not determined that an opioid was a cause 20 or contributing factor when it's been detected 21 in a tox assay -- 22 A. I cannot -- 23 Q. -- in an overdose death? 24 A. I cannot right now. 25 Q. Okay. Is there any standard</p>
<p style="text-align: right;">Page 119</p> <p>1 been instances in my own practice where, you 2 know, I've not included heroin as a cause of 3 death in that and gone with the heart disease. 4 Q. Yeah. But -- but I asked you, 5 Doctor, specifically overdose death. That's 6 what I've talked about. 7 Did -- would you have -- when 8 someone walks in and they're 90 years old and 9 they grab their heart, right, and they fall 10 down, they, say, have a heart attack, you're 11 going to say that's a cardiac event, right? 12 A. Right. Even if they saw heroin in 13 their system. 14 Q. Right. 15 And my question is, in connection -- 16 I'm -- I'm -- I'm talking specifically for 17 overdose deaths. Okay? 18 Is there a situation where you've 19 ever had -- where you've ever seen or aware of 20 any level of an opioid in combination with 21 other drugs where you have not characterized it 22 as causing or contributing to? 23 A. Not that I remember. 24 Q. So the fact is, in and overdose 25 death, if there's any measure -- it's the</p>	<p style="text-align: right;">Page 121</p> <p>1 operating procedures or guidelines to determine 2 what is a lethal dose of a particular 3 substance, let's say an illicit drug? 4 A. There are published tables that will 5 talk about therapeutic levels; about, you know, 6 toxic levels; about lethal levels. 7 I would have to caution again that, 8 you know, those tables are reference tables. 9 They do not reflect the -- the practice of 10 forensic medicine, which would include obvious 11 reference to that material but also clinical 12 information. 13 So we may, you know, have lower 14 levels of opiates with a very compelling story 15 and certify that as an opiate death in 16 accordance with, you know, stated forensic 17 practice. 18 Q. Do you look at the -- do you 19 yourself look at those tables or charts? 20 A. I have, you know, textbooks and 21 charts that I use, yeah. 22 Q. Do you know what a therapeutic dose 23 of opioids is and what's a lethal dose? 24 MR. BADALA: Objection to form. 25 THE WITNESS: There are studies and</p>

<p style="text-align: right;">Page 122</p> <p>1 tables that will have ranges there. They</p> <p>2 frequently overlap in my experience. And they</p> <p>3 would be different for different opioids.</p> <p>4 BY MR. CHEFFO:</p> <p>5 Q. In the All Opioids, does that</p> <p>6 include morphine?</p> <p>7 A. That would be an opioid. I -- I</p> <p>8 don't know if -- again, I don't know what</p> <p>9 specific opioids are here. But it certainly</p> <p>10 would be -- if it was present on a death</p> <p>11 certificate, would have been included in that</p> <p>12 All Opioid portion of the graph.</p> <p>13 Q. And are you aware that, on some</p> <p>14 or -- or -- or all tox screenings, heroin can</p> <p>15 show up or -- or often does show up as</p> <p>16 morphine?</p> <p>17 A. Heroin is metabolized to morphine,</p> <p>18 so it may show up as morphine on a screen.</p> <p>19 Chemical structure is morphine, and then you</p> <p>20 put two chemical groups on it, I acetyl, 2</p> <p>21 acetyl groups.</p> <p>22 And as heroin is metabolized through</p> <p>23 the body, what we see is one of the groups</p> <p>24 comes off, and then we see a chemical called</p> <p>25 6-monoacetylmorphine. And then the other one</p>	<p style="text-align: right;">Page 124</p> <p>1 My former chief toxicologist wrote a</p> <p>2 paper on this topic, and that was the number</p> <p>3 that we came. That's in keeping with the</p> <p>4 position paper from the National Association of</p> <p>5 Medical Examiners on the certification of</p> <p>6 opioid deaths.</p> <p>7 So we try to avoid lumping morphine</p> <p>8 deaths into here. Using those guidelines, I</p> <p>9 think, you know, there may just be morphine</p> <p>10 there. If we had a scene investigation, again,</p> <p>11 with heroin in somebody who was transported to</p> <p>12 a hospital, and all we were able to recover at</p> <p>13 that point was morphine, you know, we would</p> <p>14 probably go on the side of saying that was</p> <p>15 still heroin.</p> <p>16 Q. Is it fair to say that there are</p> <p>17 processes that you attempt to look for after</p> <p>18 the initial toxicology finding of morphine to</p> <p>19 determine whether it's a derivative of heroin,</p> <p>20 but sometimes that's complicated by various</p> <p>21 other factors, like body composition and time</p> <p>22 of death?</p> <p>23 A. The opiates as a group are pretty</p> <p>24 stable after death. So I wouldn't think they</p> <p>25 would impact it.</p>
<p style="text-align: right;">Page 123</p> <p>1 comes off, and we may just see morphine.</p> <p>2 Q. So in this 85, does that include</p> <p>3 morphine?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 THE WITNESS: It could. Again, I</p> <p>6 don't know.</p> <p>7 BY MR. CHEFFO:</p> <p>8 Q. And if it -- if it does include</p> <p>9 morphine, it could either be morphine, which is</p> <p>10 a prescribed medicine, or it could be a marker</p> <p>11 for heroin, correct?</p> <p>12 A. The morphine may have come from</p> <p>13 either source. One of the things we rely on to</p> <p>14 distinguish the two is finding that</p> <p>15 6-monoacetylmorphine. So that may be a marker.</p> <p>16 Yes, there's morphine there, but there's also</p> <p>17 monoacetylmorphine. So we would certify that</p> <p>18 as a heroin death.</p> <p>19 The other thing that we can use is a</p> <p>20 ratio of morphine to codeine. Because when</p> <p>21 heroin is recovered from the poppy plant and</p> <p>22 processed, the ratio of morphine to codeine is</p> <p>23 usually substantially higher. We use, in our</p> <p>24 laboratory, a ratio of five-to-one</p> <p>25 concentration morphine to codeine.</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. So I guess what I'm just trying to</p> <p>2 find, Doctor, is -- is --</p> <p>3 MR. BADALA: Were you done with your</p> <p>4 answer?</p> <p>5 MR. CHEFFO: Well, I mean --</p> <p>6 MR. BADALA: If you're not done, you</p> <p>7 can -- you can answer his question. I mean --</p> <p>8 MR. CHEFFO: Go ahead. Go ahead.</p> <p>9 MR. BADALA: If you're done, you're</p> <p>10 done. But if you're not done, you can still</p> <p>11 answer your question.</p> <p>12 THE WITNESS: Oh. I just wanted to</p> <p>13 say that, you know, they remain stable after</p> <p>14 death. So, you know, we see that 6-AM, that</p> <p>15 intermediate between heroin and morphine --</p> <p>16 MR. CHEFFO: Okay.</p> <p>17 THE WITNESS: -- an people are</p> <p>18 decomposed.</p> <p>19 BY MR. CHEFFO:</p> <p>20 Q. So 85, does it include morphine that</p> <p>21 was the result of heroin or not?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 THE WITNESS: Using best practices,</p> <p>24 we have made every effort to avoid including</p> <p>25 heroin deaths in the morphine deaths. And I</p>

<p style="text-align: right;">Page 126</p> <p>1 cannot say with certainty that those best 2 practices cover everything, but I would expect 3 them to cover most. That was why they were 4 promulgated. 5 BY MR. CHEFFO: 6 Q. Okay. So they -- they may include 7 some heroin usage; you can't say with certainty 8 as you sit here, correct? 9 A. That's -- again, you know, we've 10 done everything we can to exclude it. But if 11 you ask me with a hundred percent certainty can 12 I exclude that, I can only follow best 13 practices to exclude it. 14 Q. Are you using the same practices to 15 determine whether it was heroin today as you 16 were in 2012? 17 A. Yes. 18 Q. You mentioned -- we talked about 19 earlier about a -- a healthcare provider that 20 you made a referral to the Board of Pharmacy 21 because of a morphine equivalent dose that you 22 determined or at least questioned. 23 Do you remember that? 24 A. I remember the case we're talking 25 about. I don't remember if I said the</p>	<p style="text-align: right;">Page 128</p> <p>1 THE WITNESS: I don't know where 2 they go. 3 BY MR. CHEFFO: 4 Q. Where do you put them? 5 A. Most of the OARRS files I've looked 6 at I've looked at electronically. And I don't 7 know that I've ever printed one myself. 8 Q. Okay. I think I just asked you 9 that, did -- if you ever did. 10 Did -- have you ever printed out an 11 OARRS form? 12 A. I thought you said in -- has the 13 office ever printed out -- 14 Q. Have you ever printed one? 15 A. Personally, no, I have not. I don't 16 remember printing one. 17 Have I seen printed copies in the 18 office? Yes, I have. 19 Q. And the reason why you don't print 20 them is why? 21 MR. BADALA: Objection to form. 22 THE WITNESS: Save trees. I -- I -- 23 BY MR. CHEFFO: 24 Q. Is that -- that's it? 25 A. Well, I glean the information I need</p>
<p style="text-align: right;">Page 127</p> <p>1 morphine-equivalent dose or the clinical 2 symptoms. But we looked at the OARRS report. 3 And I -- I had the concern about 4 overprescribing. 5 Q. Where are the OARRS report for each 6 case maintained? 7 MR. BADALA: Objection to form. 8 THE WITNESS: We tend not to print 9 them out. Because the OARRS database is not a 10 public record. And the medical examiner's file 11 in the -- in our office is accessible by 12 statute to next of kin, the entire file. So we 13 don't print them out to keep them. 14 I am not aware of whether there's, 15 you know, a file of OARRS reports in the 16 office. I don't know that. But I -- I haven't 17 seen it. 18 BY MR. CHEFFO: 19 Q. So is it your testimony you've never 20 printed one out? 21 A. No. 22 Q. Under what circumstances do you -- 23 do you do that, and where do they go when you 24 do? 25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 129</p> <p>1 from the electronic review. And I try not to 2 print things out if it's just going to be a 3 redundant piece of information. So -- I mean I 4 -- 5 Q. How -- how big are some of the files 6 in the case? 7 They're pretty voluminous, aren't 8 they? 9 A. Some of the OARRS files? 10 Q. No. Some of the files of decedents, 11 particularly if you have criminal 12 investigations? 13 A. Varies. I mean some of them can be 14 very, very large, like the Shepherd case, which 15 still comes up and is a prominent case in this 16 part of the country. Those files are several 17 folders. 18 Q. Okay. So your testimony is you've 19 never presented out an -- an OARRS form, and 20 the reason why you didn't do that is you didn't 21 want to waste paper, fair? 22 MR. BADALA: Objection to form. 23 THE WITNESS: You know, I'd 24 appreciate it if that wasn't my answer and you 25 would be fair about what I said, which is</p>

<p style="text-align: right;">Page 130</p> <p>1 that --</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. To save trees.</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 BY MR. CHEFFO:</p> <p>6 Q. Didn't you?</p> <p>7 A. And because I gleaned the</p> <p>8 information I needed from the OARRS report</p> <p>9 before I've decided that I did not need to</p> <p>10 printed it.</p> <p>11 Q. Okay. And how -- but in order to</p> <p>12 determine -- let's assume that case became a</p> <p>13 legal case or there was other -- some other</p> <p>14 purpose.</p> <p>15 Wouldn't you want to know and -- and</p> <p>16 -- and wouldn't -- wouldn't someone -- wouldn't</p> <p>17 someone want to be able to determine whether</p> <p>18 there was OARRS information in the file?</p> <p>19 Isn't that a relevant piece of</p> <p>20 information?</p> <p>21 MR. BADALA: Objection. Form.</p> <p>22 THE WITNESS: They may.</p> <p>23 BY MR. CHEFFO:</p> <p>24 Q. Right.</p> <p>25 In order -- and then, if you wanted</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Checking OARRS and the information</p> <p>2 in OARRS is an important part of your</p> <p>3 determination of cause of death in many cases;</p> <p>4 isn't that right?</p> <p>5 A. Not in many, no. I wouldn't say</p> <p>6 that.</p> <p>7 Q. In what situations is it important</p> <p>8 to check the OARRS data?</p> <p>9 A. I think the OARRS data was very</p> <p>10 important to check with our heroin overdose</p> <p>11 deaths because we were not -- you know, we had</p> <p>12 no compelling data, other than anecdotal data,</p> <p>13 to say these people who were abusing heroin</p> <p>14 potentially got their start back with opioid</p> <p>15 pain medication.</p> <p>16 So it was very important I think to</p> <p>17 go back and see how many of these individuals</p> <p>18 had an OARRS file, how many of them had opioid</p> <p>19 prescribing, to document that, especially for</p> <p>20 our public health interventions.</p> <p>21 Because, of the opioid pain reliever</p> <p>22 phase of the crisis and then the heroin phase,</p> <p>23 we, you know, wanted to link those back. And</p> <p>24 the fentanyl phase as well.</p> <p>25 So we continue to look at OARRS data</p>
<p style="text-align: right;">Page 131</p> <p>1 to know it, every time, according to you, you'd</p> <p>2 have to go back and sit at your computer and</p> <p>3 look at it, right?</p> <p>4 One way of avoiding that would be to</p> <p>5 print it out and determine if there was OARRS</p> <p>6 data, right?</p> <p>7 A. But you're misunderstanding our</p> <p>8 relationship with the Board of Pharmacy. They</p> <p>9 do not want that data made public. That's the</p> <p>10 way the statute's written. And the corner</p> <p>11 statute makes anything in the corner's file a</p> <p>12 public document, at least to next of kin.</p> <p>13 So we cannot print them out and</p> <p>14 maintain that pledge to the Board of Pharmacy</p> <p>15 that these will not become public documents.</p> <p>16 So we do not print them, and we do not put them</p> <p>17 in our file.</p> <p>18 Q. So is it your testimony there's no</p> <p>19 mechanism to segregate that information from</p> <p>20 the file?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: I don't know -- I mean</p> <p>23 it seems to me like there would be, but I don't</p> <p>24 know that we've done that.</p> <p>25 BY MR. CHEFFO:</p>	<p style="text-align: right;">Page 133</p> <p>1 on our drug overdose deaths. But in terms of</p> <p>2 the certification of those deaths, I wouldn't</p> <p>3 say we look at it that often to make a</p> <p>4 certification, if at all.</p> <p>5 Q. When you go back and look at it, do</p> <p>6 you print them out, or do you just sit at the</p> <p>7 computer and -- and memorize that information?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 THE WITNESS: I don't memorize it,</p> <p>10 but I don't print it either.</p> <p>11 BY MR. CHEFFO:</p> <p>12 Q. So you said you -- you went back and</p> <p>13 did a -- kind of a -- a back look, right, on</p> <p>14 OARRS data.</p> <p>15 Did I get that right?</p> <p>16 A. The office has, yes.</p> <p>17 Q. Okay. And when they --</p> <p>18 A. Me and other designees.</p> <p>19 Q. When they -- did they did -- did --</p> <p>20 when they did that, did they print it out, or</p> <p>21 did they make records of the OARRS data in</p> <p>22 order to do that analysis?</p> <p>23 A. I can only say what I did, which is</p> <p>24 I looked at it and generated, you know, reports</p> <p>25 around that. But I did not print any of that</p>

<p style="text-align: right;">Page 134</p> <p>1 out.</p> <p>2 Q. So -- so tell me what you did.</p> <p>3 Like what -- did you look at each</p> <p>4 case, and then you went back, and you</p> <p>5 determined if there was an OARRS report?</p> <p>6 A. We took the list of decedents --</p> <p>7 well, let's take 2013. We would take that list</p> <p>8 of decedents and send that to the Board of</p> <p>9 Pharmacy with our information -- identifying</p> <p>10 information and ask them, "Do you have an OARRS</p> <p>11 report on this individual?"</p> <p>12 And they would supply us with a</p> <p>13 yes-or-no answer and then the OARRS data that</p> <p>14 we could then go back and analyze for</p> <p>15 prescribing so that -- did they have an OARRS</p> <p>16 file, what was prescribed, was there evidence</p> <p>17 of doctor shopping.</p> <p>18 And we would not print those out, as</p> <p>19 I said. I didn't print them out myself.</p> <p>20 Q. Yeah. Okay, Doctor.</p> <p>21 So you didn't print them out, but</p> <p>22 somebody printed them out and sent them to you?</p> <p>23 Is that what you're telling us?</p> <p>24 A. No. That's not what I'm saying at</p> <p>25 all.</p>	<p style="text-align: right;">Page 136</p> <p>1 didn't choose to look at that.</p> <p>2 And our crisis, as it was evolving,</p> <p>3 was initially with heroin when we detected it</p> <p>4 and subsequently fentanyl.</p> <p>5 Cocaine hadn't really changed over</p> <p>6 this period of time. And its relationship to</p> <p>7 previous prescribing opioid pain relievers</p> <p>8 wouldn't imply creating an addicted population</p> <p>9 of narcotics folks, opioid pain relieve or</p> <p>10 opioid dependent people. So we didn't look at</p> <p>11 it.</p> <p>12 Q. What about methamphetamine; did you</p> <p>13 ask for OARRS data about people who overdosed</p> <p>14 on meth?</p> <p>15 A. No. For the same reason. It's a</p> <p>16 stimulant. So we wouldn't know the relevance</p> <p>17 of OARRS data for the opioids with that regard.</p> <p>18 Amphetamine is a controlled</p> <p>19 substance that we could have gleaned from OARRS</p> <p>20 data. But our methamphetamine deaths, as I</p> <p>21 say, you know, have been somewhere in the 10 to</p> <p>22 25 range for a long time. So that isn't, you</p> <p>23 know, the crisis that was really glaring at us</p> <p>24 in terms of solving that.</p> <p>25 Q. Well, you said fentanyl was a</p>
<p style="text-align: right;">Page 135</p> <p>1 Q. You said you sent a list to the</p> <p>2 Board of Pharmacy, right?</p> <p>3 A. Right.</p> <p>4 Q. And you asked them, "Are there" --</p> <p>5 "Are there any OARRS reports for any of the</p> <p>6 people on the list," right?</p> <p>7 A. Right.</p> <p>8 Q. And -- and the list included</p> <p>9 everybody who had a drug overdose.</p> <p>10 A. Right.</p> <p>11 Q. And --</p> <p>12 A. Well, we were looking at heroin</p> <p>13 overdoses and fentanyl --</p> <p>14 Q. Okay.</p> <p>15 A. -- overdoses.</p> <p>16 Q. What about cocaine?</p> <p>17 A. Not an opioid, so it wasn't as</p> <p>18 relevant to us to go back and look at the</p> <p>19 controlled substance data.</p> <p>20 Q. Why wasn't looking at control --</p> <p>21 cocaine relevant to find out if they had an</p> <p>22 OARRS report?</p> <p>23 A. The mechanism of cocaine is</p> <p>24 fundamentally different than the opioids, be</p> <p>25 they heroin or the opioid pain relievers. We</p>	<p style="text-align: right;">Page 137</p> <p>1 crisis, right?</p> <p>2 A. Fentanyl became a crisis, yes.</p> <p>3 Q. Right.</p> <p>4 And --</p> <p>5 A. Not on this graph that you're</p> <p>6 showing me.</p> <p>7 Q. At the graph I'm looking at, it --</p> <p>8 it looks like it's the lowest of the -- the</p> <p>9 five drugs.</p> <p>10 So when did fentanyl become a</p> <p>11 crisis?</p> <p>12 A. We become aware of fentanyl as a</p> <p>13 crisis I would say 2015, 2016. But --</p> <p>14 Q. But when was it --</p> <p>15 A. -- one of the things --</p> <p>16 Q. Sorry. Go ahead.</p> <p>17 A. If I could finish.</p> <p>18 Q. Yeah.</p> <p>19 A. One of the things, you know, that</p> <p>20 you have to understand is we're doing</p> <p>21 retrospective looks. And this rise to 37 in</p> <p>22 2014, we really, in retrospect, and I think</p> <p>23 even at the time, were concerned that's the</p> <p>24 start of our fentanyl crisis. It's just it</p> <p>25 hadn't really overwhelmed us to the same extent</p>

<p style="text-align: right;">Page 138</p> <p>1 that having 399 deaths in 2016 or 492 deaths in 2 2017 did.</p> <p>3 Q. Well, what about -- why wasn't the 4 cocaine a crisis when it was probably in 5 2013 -- I don't know. What's the number? --you 6 know, 30 times more, 20 time -- 25 times more?</p> <p>7 Was cocaine a crisis over fentanyl? 8 You had five case of fentanyl in 9 2013; you had 116 cases in -- in -- of cocaine, 10 right.</p> <p>11 Was cocaine a crisis? 12 MR. BADALA: Objection to form. 13 THE WITNESS: Again, cocaine hasn't 14 changed acutely.</p> <p>15 MR. CHEFFO: That's not -- 16 THE WITNESS: I think -- 17 MR. CHEFFO: -- my question. 18 THE WITNESS: -- it's a problem, but 19 I wouldn't necessarily say that the crisis here 20 had overwhelmed our capacity to respond to it.</p> <p>21 BY MR. CHEFFO: 22 Q. Did -- did the five cases of 23 fentanyl overwhelm your ability? 24 A. No. 25 Q. Did the --</p>	<p style="text-align: right;">Page 140</p> <p>1 A. 20 -- 2006 is a -- an unusual year 2 for fentanyl. Because there was a distribution 3 of pharmaceutical fentanyl around the Great 4 Lakes. So we had a -- a unusually high number 5 that year.</p> <p>6 Q. But it was still less by orders of 7 magnitude than cocaine and heroin, right? 8 A. Right. It was just higher at that 9 number.</p> <p>10 Q. Okay. So the crisis you believe was 11 identified and -- and occurred in 2 -- after 12 2015 for fentanyl? 13 A. Fentanyl I would say the crisis was 14 identified in 2016, 2017.</p> <p>15 Q. Okay. Now, let's go back to your 16 request for OARRS data.</p> <p>17 You looked at what year when you 18 went to the Board of Pharmacy? 19 Was it a single year? 20 A. We collect on -- we're in an ongoing 21 collection of OARRS data. We -- I should say 22 that we started getting data from Board of 23 Pharmacy with regard to OARRS for 2012 year. 24 We continued to have access to OARRS as a 25 coroner medical examiner, access. And just</p>
<p style="text-align: right;">Page 139</p> <p>1 A. And I -- I would say, you know, this 2 isn't really where we're looking at the 3 fentanyl phase of the opioid crisis. So, you 4 know, the graph goes on beyond 2014 and rises 5 dramatically for fentanyl in '15, '16, '17, and 6 remains up in '18.</p> <p>7 Q. So '15, '16, '17, that's when the -- 8 the fentanyl crisis was?</p> <p>9 A. It's evolving over timing. So as I 10 look back, I say, you know, this 2014 data is 11 probably where, you know, retrospectively I can 12 say that's starting the crisis here.</p> <p>13 Because the bulk of these 37 deaths 14 were actually in the last two months of that 15 year. And it rose -- nearly tripled in 2015, 16 nearly tripled again in 2016.</p> <p>17 Q. Okay.</p> <p>18 A. And that's where our resource get 19 overwhelmed.</p> <p>20 But, you know, if you're telling me 21 in 2013 five deaths is a fentanyl crisis, I 22 would say that wasn't really our thinking at 23 the time.</p> <p>24 Q. And that would be true for any year 25 prior to that, right?</p>	<p style="text-align: right;">Page 141</p> <p>1 because we've had so many deaths, just -- 2 Q. I'm listening. Go ahead. 3 A. Are you? Okay.</p> <p>4 Just because we've had so many 5 deaths, we have fallen behind in our ability to 6 look at OARRS data. But we've made our efforts 7 to stay as current as we can.</p> <p>8 It's just that personnel-wise we 9 don't have people. We just hired an 10 epidemiologist into our office to sort -- to 11 sort out some of these look-backs. Because our 12 existing staff has really just been dedicated 13 to our primary mission. And our ability to 14 keep up with some of these things just really 15 wasn't --</p> <p>16 Q. Okay.</p> <p>17 A. -- possible.</p> <p>18 Q. I want to ask some very just basic 19 document questions. Okay?</p> <p>20 That's where I'm -- 21 A. Okay.</p> <p>22 Q. -- I'm going.</p> <p>23 Am I right that, since 2012, you 24 have sent the Board of Pharmacy a list of all 25 overdose deaths and asked them to provide</p>

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1 information about whether there is or was an  
 2 OARRS report?  
 3 A. Yes.  
 4 Q. Did it occur prior to 2012?  
 5 A. Or I'm sorry. You know, I -- I -- I  
 6 misspoke there.  
 7 In 2012 we asked about an OARRS file  
 8 specifically on our heroin overdose deaths.  
 9 And that would continue to now.  
 10 And then I don't remember when, but  
 11 we have access to OARRS, and the intention is  
 12 to be able to look at our overdose deaths with  
 13 fentanyl as well as heroin.  
 14 Q. Okay. And I want to talk about  
 15 documents now, Doc. Just -- I'm just talking  
 16 about the documents, what the requests are made  
 17 and -- and where they are.  
 18 So from -- when the requests were  
 19 made for OARRS information from the Board of  
 20 Pharmacy, and they -- certain information was  
 21 sent back from the Board of Pharmacy to your  
 22 office, correct?  
 23 A. For a period of time. I mean now we  
 24 have our list of decedents; we have access to  
 25 OARRS; and we can go and do our own searches.

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1 We don't have to have the intermediate step of  
 2 having --  
 3 Q. Right?  
 4 A. -- pharmacy approve.  
 5 In fact, you know, as I sit here,  
 6 the only year I really remember us having that  
 7 need to have pharmacy provide the data us to  
 8 was 2012. And we got access in 2013 because  
 9 there was a lot of back and forth about why we  
 10 needed access.  
 11 Q. Uh-huh.  
 12 A. And that was transmitted  
 13 electronically from pharmacy to us. It was  
 14 deidentified in some regards.  
 15 Beyond that, 2013, we get access to  
 16 OARRS. And it's a database; it's a web site.  
 17 We can go and look up our own cases.  
 18 So I don't know, as I sit here  
 19 today, whether they were actually sending  
 20 electronic files after 2013. They did for 2012  
 21 because there was the issue about whether, as  
 22 an office, the medical examiner, because I  
 23 don't have a prescription -- pardon me -- a DEA  
 24 number to prescribe narcotics, whether I was  
 25 going to get access to OARRS.

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1 So when that wasn't clear -- I think  
 2 over time they realized that this was  
 3 potentially very useful information -- they  
 4 give us a body of deidentified data  
 5 electronically for the 2012 overdoses.  
 6 Q. Do -- do some people in your office  
 7 print out OARRS reports as part of their  
 8 investigation or autopsies?  
 9 A. I don't know.  
 10 Q. Okay.  
 11 A. I -- I've seen printed OARRS  
 12 reports, I can say. But whether that's a  
 13 routine, I don't know.  
 14 Q. Do you know the circumstances about  
 15 whether they are printed?  
 16 A. No.  
 17 Q. Do you know if they're kept in any  
 18 uniform way?  
 19 A. I'm not aware --  
 20 MR. BADALA: Objection to form.  
 21 THE WITNESS: -- of any OARRS file  
 22 that we have on our decedents.  
 23 BY MR. CHEFFO:  
 24 Q. If somebody has only cocaine as part  
 25 of their toxicological assay, and it's listed

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1 as the cause of death, is an OARRS report or  
 2 query done?  
 3 A. If it was just a straight overdose  
 4 with cocaine, we would not do an OARRS check on  
 5 that. We started with the heroin overdoses,  
 6 and then we added the fentanyl overdoses when  
 7 they became more significant.  
 8 We do send a list of our  
 9 prescription opioid deaths where they appear on  
 10 the death certificate to the Department of  
 11 Health. But I don't know, beyond that, what  
 12 they do in terms of looking into OARRS data or  
 13 not.  
 14 Q. And why is it that you don't do an  
 15 OARRS report in connection with a -- a cocaine  
 16 death?  
 17 A. For the reasons that I mentioned  
 18 before. Our cocaine deaths have been stable  
 19 over a period of time. So we're trying to  
 20 respond to the crisis to design public health  
 21 interventions to reduce deaths related to  
 22 initially heroin and then fentanyl.  
 23 The relationship pharmacologically  
 24 between opioid pain relievers, heroin and  
 25 fentanyl, is clear. They act on the same

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1 receptor in the brain. Cocaine does not.  
 2 So seeing whether somebody with  
 3 cocaine had an opioid pain reliever  
 4 prescription before, I don't know how that  
 5 would inform a public health initiative in  
 6 terms of drug drop boxes or trying to get  
 7 people to have less access to the opioid pain  
 8 relievers.  
 9 Q. So, Doctor, putting aside what other  
 10 uses, there -- OARRS -- in your -- when you're  
 11 doing an individual autopsy -- let's just talk  
 12 about you as a forensic doctor doing an  
 13 autopsy.  
 14 There is a reason why you do an  
 15 OARRS query in some cases in order to determine  
 16 or help you assist in your investigation and  
 17 preparing your report; is that fair?  
 18 A. That would be very rare, if -- I  
 19 can't remember ever doing it to finish a death  
 20 investigation, which -- by "finish" I would  
 21 say, you know, write a cause of death, death  
 22 certificate, issue a final of report. These  
 23 were more retrospective looks after we had  
 24 certified deaths.  
 25 Q. What about as part of the

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1 investigation?  
 2 So, for example, let's assume  
 3 someone had an overdose of fentanyl.  
 4 Would it be kind of standard  
 5 practice for -- you were the investigator, and  
 6 there was no indicia, you know, at the -- the  
 7 site of death --  
 8 A. Right.  
 9 Q. -- to determine whether this person  
 10 had a prescription for fentanyl or whether  
 11 there was no prescription so that the  
 12 assumption might be that it was a synthetic.  
 13 Is that part of your investigation?  
 14 MR. BADALA: Objection to form.  
 15 THE WITNESS: I have to say, you  
 16 know, when we're on scene at a death, it may  
 17 look like an overdose. We don't have that  
 18 degree of specificity what might be involved  
 19 there. You know, I don't know if it's opioids,  
 20 cocaine. It may be just powder there.  
 21 And, you know, checking an OARRS  
 22 report at that time would be really premature  
 23 and just -- you know, we're already strained on  
 24 resources. I -- I think we have to kind of  
 25 make our best use, which is after

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1 certification.  
 2 BY MR. CHEFFO:  
 3 Q. So is it your testimony that your  
 4 investigators don't check OARRS reports as a  
 5 matter of course with respect to fentanyl or  
 6 heroin or other opioid overdoses?  
 7 MR. BADALA: Objection.  
 8 THE WITNESS: My scene  
 9 investigators?  
 10 BY MR. CHEFFO:  
 11 Q. Yeah.  
 12 Anyone who is involved in the  
 13 autopsy and the report, is it part of their  
 14 standard practice and procedures or not?  
 15 MR. BADALA: Same objection.  
 16 THE WITNESS: I think you're  
 17 confusing me.  
 18 The autopsy is kind of what I do at  
 19 the autopsy table. The investigation is the  
 20 sum --  
 21 MR. CHEFFO: Okay.  
 22 THE WITNESS: -- of things to get to  
 23 that point where I write a death certificate.  
 24 And we are not checking OARRS  
 25 reports at that time usually. There may be

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1 exceptions where we do, like the case I  
 2 mentioned.  
 3 Most of the checks that we've done  
 4 on OARRS have been done retrospectively after  
 5 deaths were certified. And that's just the way  
 6 our staff is, you know, able to do that.  
 7 Those checks, you know, are done by  
 8 delegates. And I believe one of my delegates  
 9 is a senior investigator. But most the  
 10 investigators do not do that. And they  
 11 certainly wouldn't be doing it at the time of a  
 12 scene investigation.  
 13 Or, you know, just the work flow in  
 14 our office, to go from scene investigation,  
 15 usually autopsy is the next day or within a day  
 16 or two of that. We wouldn't be checking OARRS  
 17 in that time frame.  
 18 BY MR. CHEFFO:  
 19 Q. So let -- let me see if I  
 20 understand. I think I do.  
 21 What you're saying to us is that  
 22 OARRS reports may be queried, and it's  
 23 primarily for retrospective public health  
 24 reasons, but they're typically not queried --  
 25 or the OARRS database is not queried in

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1 connection with a death investigation or  
 2 creation of an autopsy report.  
 3 Is that fair?  
 4 A. It would be the rare instance where  
 5 we would do that. It's more retrospective  
 6 look. And again, the targeted purpose of that  
 7 is to design interventions to try to address  
 8 the number of people who are dying.  
 9 Q. So in order to determine, for  
 10 example -- is checking the OARRS database one  
 11 way that you would determine whether someone  
 12 was doctor shopping?  
 13 A. Yes.  
 14 Q. And -- and that's not typically done  
 15 at the time of death or when you're doing your  
 16 investigation or autopsy report; is that right?  
 17 A. That's right.  
 18 Q. And can you see a benefit of doing  
 19 it at that time?  
 20 A. I mean the sooner you identify it,  
 21 the better. But it comes down again to  
 22 resources in our office. I don't have -- you  
 23 know, we're overwhelmed with everything that's  
 24 going on in a lot of ways.  
 25 So, you know, asking people to do

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1 that at the time of investigation would result  
 2 in us doing a lot of OARRS checks on people who  
 3 don't have heroin or fentanyl in their system.  
 4 We would be guessing, you know, what drug was  
 5 potentially involved.  
 6 Q. Not my question though.  
 7 So let's -- let's talk about heroin  
 8 or fentanyl or an overdose involving an opioid.  
 9 Okay?  
 10 A. Sure.  
 11 Q. How long does it take to do an -- to  
 12 -- a -- a check for OARRS?  
 13 MR. BADALA: Objection to form.  
 14 THE WITNESS: To check the system?  
 15 MR. CHEFFO: Uh-huh. Yes.  
 16 THE WITNESS: I haven't done it in a  
 17 little while. It usually -- you know, minutes.  
 18 BY MR. CHEFFO:  
 19 Q. And if -- if you determined that --  
 20 if it was done and you determined that that  
 21 person had been doctor shopping, would that be  
 22 important information to have?  
 23 MR. BADALA: Objection to form.  
 24 THE WITNESS: In the death  
 25 investigation or just in general?

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1 MR. CHEFFO: Both.  
 2 THE WITNESS: In term of  
 3 certification of death, I -- I don't think it  
 4 would be very relevant. In terms of public  
 5 health interventions, yeah, doctor shopping is  
 6 something we should be trying to monitor and  
 7 pick up.  
 8 BY MR. CHEFFO:  
 9 Q. And if you -- if you did an OARRS --  
 10 someone spent the five minutes or so doing an  
 11 OARRS check in connection with overdoses  
 12 involving heroin or fentanyl or other opioids,  
 13 and you identified doctor shopping, you would  
 14 presumably refer that to the appropriate  
 15 authorities?  
 16 A. Right. As I mentioned before, when  
 17 we identify doctor shopping, we don't refer the  
 18 prescribers, we refer the decedent to the Board  
 19 of Pharmacy for further investigation.  
 20 Q. You would agree that not every  
 21 person who has overdosed on heroin has ever  
 22 taken a -- in Cuyahoga County has taken a  
 23 prescription medicine, right?  
 24 A. I don't know for certain, but I  
 25 suspect that's true.

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1 Q. If you wanted to -- to know that,  
 2 you would look at the OARRS database?  
 3 That would be one way?  
 4 A. The ideal way is actually to ask the  
 5 person, but obviously we can't do that. So one  
 6 of the things that we try to do is to go back  
 7 and look at the OARRS database to see if they  
 8 had been prescribed. It's the best data we  
 9 could get.  
 10 Family might be another source of  
 11 information that we may be able to tap into as  
 12 well.  
 13 Q. Do you have any mechanism to look  
 14 for whether someone was receiving drugs, opioid  
 15 medicines from a -- a pill mill?  
 16 MR. BADALA: Objection to form.  
 17 THE WITNESS: Within the Medical  
 18 Examiner's Office, not directly. That would be  
 19 more of a law enforcement function.  
 20 BY MR. CHEFFO:  
 21 Q. Well, wouldn't OARRS tell you?  
 22 A. I would have prescriber names. But  
 23 whether those individuals were running a pill  
 24 mill, I wouldn't be able to necessarily tell  
 25 that from the OARRS data.

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1 Q. Wouldn't there be anything that  
2 would raise a suspicion?  
3 MR. BADALA: Objection to form.  
4 THE WITNESS: Again, the criteria  
5 that we used for our reporting I think were  
6 things that we identified as potentially  
7 suspicious.  
8 BY MR. CHEFFO:  
9 Q. Well, if you were to look at OARRS  
10 data, and you were to see prescriptions being  
11 filled from the same doctor or facility, pill  
12 mill, and you saw, you know, every -- every  
13 week new prescriptions that appeared to you to  
14 be well beyond customary doses or frequency,  
15 isn't that how you might identify a pill mill?  
16 MR. BADALA: Objection to form.  
17 THE WITNESS: I don't know. I...  
18 BY MR. CHEFFO:  
19 Q. Do you have any idea how you might  
20 identify pill mill activity?  
21 A. As I say, it's more of a law  
22 enforcement function, I would think.  
23 Q. So the answer is no, that's not in  
24 your expertise?  
25 A. No. I wouldn't say so.

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1 Q. Do you think that detection of  
2 illicit fentanyl is -- is undercounted and  
3 underreported?  
4 A. I don't know. It may be.  
5 Q. Are you aware of situations where  
6 there have been decedents who purchased or --  
7 or used what they believed was cocaine and it  
8 was laced with another chemical, like  
9 carfentanil or fentanyl?  
10 MR. BADALA: Objection to form.  
11 THE WITNESS: We -- we can only  
12 infer that. But short of asking them what they  
13 were intending to use, I can't say that with  
14 certainty.  
15 BY MR. CHEFFO:  
16 Q. Well, I mean even anecdotically, is  
17 that something in your work that -- that's in  
18 your conversations with law enforcement and  
19 family and investigation reports?  
20 You know, someone says, "I talked to  
21 Johnny, who was there. We thought we were  
22 using cocaine. We had no idea we were using  
23 fentanyl."  
24 Has anything like that come up in  
25 Cuyahoga County?

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1 MR. BADALA: Objection to form.  
2 THE WITNESS: I -- I believe so.  
3 And I think, you know, the entry of fentanyl  
4 into the African-American population coincided  
5 with seeing more mixtures of fentanyl and  
6 cocaine. And cocaine was a drug that we  
7 traditionally saw more in the African-American  
8 population.  
9 So again, I can't -- can't talk to  
10 the guy after they've passed away. But, you  
11 know, that certainly suggested to us that the  
12 infiltration of fentanyl into the cocaine  
13 market was pushing mortality and may have been  
14 something that these folks were not expecting.  
15 We did issue an alert to that effect  
16 from our office.  
17 BY MR. CHEFFO:  
18 Q. And in that situation, if that did  
19 occur, that would be listed as both a cocaine  
20 and fentanyl death?  
21 A. Again, you know, I'd have to see the  
22 sum of the investigation. But we have  
23 certified deaths like that as a combined  
24 cocaine and fentanyl overdose.  
25 Q. And -- and if someone takes their

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1 life and commits suicide by overdose, is --  
2 is -- is -- is that counted as a opioid death  
3 if it involved, in whole or part, opioids?  
4 A. We would count it as a -- an opioid  
5 death. For this data we tried to I think look  
6 at our accidental deaths, as I understand it.  
7 We didn't use the suicide designations.  
8 Q. Are you -- are you -- you're aware  
9 of how your office counts and treats suicide  
10 deaths from -- from overdose, correct?  
11 A. Yes.  
12 Q. Is it consistent with what the --  
13 the state Department of -- of Health does, or  
14 do you vary in how you count suicides?  
15 A. I don't know what the state  
16 Department of Health does. Our practice is in  
17 keeping with, you know, our professional  
18 organization and standards, that they are  
19 recommendations they make.  
20 And I'm not aware of the state  
21 promulgating standards about suicide and  
22 determination of suicide.  
23 Q. What -- what professional  
24 organizations do you follow with respect to how  
25 you treat an account for suicides?

<p style="text-align: right;">Page 158</p> <p>1 A. There are guidelines from the</p> <p>2 National Association of Medical Examiners with</p> <p>3 regard to death certification. And I think,</p> <p>4 you know, we're all familiar with those in the</p> <p>5 office, myself and the other certifiers.</p> <p>6 Q. Any other promulgating entities or</p> <p>7 rules?</p> <p>8 A. That's probably the guiding one, I'd</p> <p>9 say, on a lot of things. There's papers</p> <p>10 written about, you know, death certification.</p> <p>11 And I would say, you know, some of that can be,</p> <p>12 you know, in the common knowledge.</p> <p>13 But I think, as a document, the</p> <p>14 classification of manners of death is probably</p> <p>15 the one that's most often used.</p> <p>16 Q. Do you know in -- whether you</p> <p>17 account for, from a statistics perspective,</p> <p>18 overdose deaths by suicide in the same way that</p> <p>19 Summit County does?</p> <p>20 MR. BADALA: Objection to form.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. Do you know -- do you have any</p> <p>24 visibility or insight into how Summit, Akron or</p> <p>25 Cleveland operates their medical examiner</p>	<p style="text-align: right;">Page 160</p> <p>1 THE VIDEOGRAPHER: We are back on</p> <p>2 the record.</p> <p>3 This is the beginning of Media Unit</p> <p>4 No. 3.</p> <p>5 The time is 12:11.</p> <p>6 You may proceed, Counsel.</p> <p>7 BY MR. CHEFFO:</p> <p>8 Q. Now, Doctor, earlier you -- you</p> <p>9 mentioned -- you brought up a person by the</p> <p>10 name of Carole Rendon.</p> <p>11 Do you remember that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Who is she?</p> <p>14 A. She is our U.S. Attorney. She was</p> <p>15 the deputy -- or sorry -- the first deputy when</p> <p>16 I met her. Then she became U.S. Attorney.</p> <p>17 And now Justin Hurdman is our</p> <p>18 attorney. So I -- I've had three since I got</p> <p>19 here.</p> <p>20 Q. And how many times did you meet with</p> <p>21 her?</p> <p>22 A. Oh, any number of times. I mean she</p> <p>23 would be chairing the task force. I -- yeah.</p> <p>24 We'd chat with her.</p> <p>25 MR. PORTER: Excuse me. The phone</p>
<p style="text-align: right;">Page 159</p> <p>1 offices?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 THE WITNESS: Cleveland does not</p> <p>4 have a Medical Examiner's Office. That's</p> <p>5 Cuyahoga County. So their practice would be</p> <p>6 the same as the county. They don't maintain a</p> <p>7 separate agency.</p> <p>8 Summit County, I speak to Dr.</p> <p>9 Koehler, but I don't know the details of that</p> <p>10 part of her practice.</p> <p>11 MR. BADALA: Mark, if you think it's</p> <p>12 a good time. About an hour and a half. We're</p> <p>13 a little over noon. I --</p> <p>14 MR. CHEFFO: Yeah.</p> <p>15 MR. BADALA: I don't know if lunch</p> <p>16 is here and we can maybe break for lunch now</p> <p>17 MR. CHEFFO: We can do -- I --</p> <p>18 MR. BADALA: If that makes sense.</p> <p>19 MR. CHEFFO: So yeah. I'm fine with</p> <p>20 that. I actually -- let's go off the record.</p> <p>21 THE VIDEOGRAPHER: We -- we are</p> <p>22 going off the record.</p> <p>23 This is the end of Media Unit No. 2.</p> <p>24 The time is 12:03.</p> <p>25 (A short recess was taken.)</p>	<p style="text-align: right;">Page 161</p> <p>1 are still muted.</p> <p>2 MR. CHEFFO: Sorry. Thank -- thanks</p> <p>3 for that. We apologize.</p> <p>4 BY MR. CHEFFO:</p> <p>5 Q. And what about in connection with --</p> <p>6 did -- did you -- did you testify or indicate</p> <p>7 that you -- you -- you met with her and -- and</p> <p>8 other federal prosecutors in connection with</p> <p>9 strategies for drug prosecutions?</p> <p>10 A. We did meet. Yes, we did.</p> <p>11 Q. How many times?</p> <p>12 A. With Carole, specifically around</p> <p>13 that topic, I remember meeting a first time,</p> <p>14 and we discussed those issues. We subsequently</p> <p>15 wrote a paper with another one of the U.S.</p> <p>16 Attorneys for my professional journal about</p> <p>17 prosecutions.</p> <p>18 So we could talk about, you know,</p> <p>19 the strategy behind what -- it came to kind</p> <p>20 of -- you know, my understanding changed, you</p> <p>21 know, as to what their standards were. And I</p> <p>22 think their understanding about what the</p> <p>23 medical examiner could and could not say in a</p> <p>24 death specification overdose case also changed.</p> <p>25 So we -- we -- I -- I decided it</p>

<p style="text-align: right;">Page 162</p> <p>1 would be a good thing to put out for my 2 professional community. And Carole and -- the 3 other fellow's name was Joe Pinjuh -- were very 4 helpful in -- 5 Q. Okay. 6 A. -- that part of the process. 7 Q. Doctor, I'm going to ask that you 8 listen to my questions. 9 I asked you specifically how many 10 times did you meet with Ms. Rendon in 11 connection with the prosecution. And I think 12 you told me you remembered one, and then there 13 were subsequent -- 14 A. Well, I -- I'm sorry. 15 Q. No. 16 A. Finish your question. 17 Q. Is it one? 18 A. In answering your question, what I'm 19 saying is we met once, I remember specifically, 20 to discuss -- 21 Q. Okay. 22 A. -- you know, prosecutions. We met 23 subsequently to talk about the publication of 24 that article, which is very much related to 25 prosecutions.</p>	<p style="text-align: right;">Page 164</p> <p>1 A. I just -- I heard "other U.S. 2 Attorneys" too. 3 Q. Where -- when you discussed the 4 prosecutions, were they for specific pending 5 cases, or did you speak in general terms? 6 MR. BADALA: Objection to form. 7 THE WITNESS: Both. 8 BY MR. CHEFFO: 9 Q. Okay. And were they against 10 individuals? 11 A. I don't remember the details of the 12 case we discussed. But there was upcoming 13 prosecution. 14 Q. Were they any of the defendants in 15 this case? 16 A. No. No, they were not. That's my 17 understanding, I should say. I don't know for 18 certain who we were talking about. But I 19 didn't have the understanding they were the 20 defendants in this case. 21 Q. And how many times did you meet with 22 Ms. Rendon and other members of the U.S. 23 Attorney's Office outside of the context of the 24 Heroin and Opioid Task Force? 25 A. I don't remember.</p>
<p style="text-align: right;">Page 163</p> <p>1 And in terms of other U.S. 2 Attorneys -- 3 Q. That's -- 4 A. -- I've met with a handful of them 5 about drug prosecutions, not Carole at that 6 time. 7 Q. That -- that -- I mean I'm -- this 8 line of questioning I'm asking you just about 9 Ms. Rendon because I want to try and get 10 that -- 11 MR. BADALA: Just to be clear, Mark, 12 you didn't say that. 13 MR. CHEFFO: I did. 14 MR. BADALA: No, you didn't. You 15 said Carole and other attorneys. 16 MR. CHEFFO: Okay. 17 MR. BADALA: You said that. Just to 18 be clear. 19 BY MR. CHEFFO: 20 Q. I'm going to ask you questions about 21 Ms. Rendon, if you need to answer in any other 22 way. But that's what I'm going to focus on so 23 we can kind of get through this and -- and -- 24 A. Sure. 25 Q. -- to --</p>	<p style="text-align: right;">Page 165</p> <p>1 Q. Is it more than one? 2 A. Yes. 3 Q. Is it more than five? 4 A. I don't remember. 5 Q. What -- what specifically do you 6 remember? 7 A. I remember our meeting, which was at 8 the Medical Examiner's Office, to talk about 9 the prosecution of opioid deaths. I remember 10 meeting with U.S. Attorney's Office, including 11 Carole, I believe, to talk about a custody 12 death. It wasn't related to opioids. I don't 13 remember other meetings. I just -- I can't 14 remember them. 15 Q. Do you remember having a meeting 16 about the Supreme Court's decision in the 17 Burrage versus United States case? 18 A. Yes. 19 Q. What was that about, the case? 20 A. We were talking about the 21 prosecution of opioid-related deaths as they 22 would refer back to a distributor or dealer and 23 the -- the burden of proof that they were 24 required to meet in those kind of prosecution. 25 And from my side, I was talking to</p>

<p style="text-align: right;">Page 166</p> <p>1 them about the interpretation of toxicology</p> <p>2 findings that would potentially have an impact</p> <p>3 on meeting that burden of proof.</p> <p>4 Q. And -- and is it your recollection</p> <p>5 that, during that meeting, the U.S. Attorney's</p> <p>6 Office and -- and the lawyers there provided</p> <p>7 your office with information about that case,</p> <p>8 Burrage versus the United States?</p> <p>9 A. They discussed it. They would have</p> <p>10 mentioned it. I don't know that they handed me</p> <p>11 a -- pardon me -- a decision. I did</p> <p>12 subsequently get a copy of that and read it,</p> <p>13 but I don't remember if it was around that time</p> <p>14 or not.</p> <p>15 Q. I mean it's fair to say you weren't</p> <p>16 providing them information about a legal case,</p> <p>17 were you?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 THE WITNESS: Boy, that would be</p> <p>20 scary. No, it was not.</p> <p>21 BY MR. CHEFFO:</p> <p>22 Q. And -- and have you ever heard of</p> <p>23 Craig Tame?</p> <p>24 A. Yes, I have.</p> <p>25 Q. Who is he?</p>	<p style="text-align: right;">Page 168</p> <p>1 the room. The discussions I had subsequent</p> <p>2 with Carole Rendon with regard to our</p> <p>3 publication, Joe Pinjuh would have been</p> <p>4 involved in them as a coauthor. But who was in</p> <p>5 that room I honestly do not remember.</p> <p>6 Q. Was it just her, or do you remember</p> <p>7 there being other people there?</p> <p>8 A. I seem to remember other people were</p> <p>9 there. It wasn't just Carole and I sitting</p> <p>10 there.</p> <p>11 Q. Was Mr. Shannon there?</p> <p>12 A. I don't remember who was actually</p> <p>13 there.</p> <p>14 Q. And after that meeting, is that when</p> <p>15 you decided to coauthor an article with Ms.</p> <p>16 Rendon and Mr. Pinjuh?</p> <p>17 A. No.</p> <p>18 Q. You had decided to talk -- to write</p> <p>19 an article about the -- the Burrage decision</p> <p>20 prior to that?</p> <p>21 A. Oh, oh, I'm sorry. I thought you</p> <p>22 meant like right after that meeting did we</p> <p>23 decide to --</p> <p>24 Q. Well, at some point after it, right?</p> <p>25 A. At some time after that, yes. It</p>
<p style="text-align: right;">Page 167</p> <p>1 A. He is one of the U.S. Attorneys.</p> <p>2 And I've interacted with him in his capacity on</p> <p>3 the task force, especially the U.S. Attorney's</p> <p>4 task force.</p> <p>5 Q. And what about Mike Tobin; have you</p> <p>6 heard of him?</p> <p>7 A. Yes, I have.</p> <p>8 Q. And who is he?</p> <p>9 A. Mike is another one of the U.S.</p> <p>10 Attorneys. I know he does a lot of the kind of</p> <p>11 media outreach and things. I don't know</p> <p>12 exactly what his role is in the office.</p> <p>13 I don't really know what Craig's is</p> <p>14 either. Just I know them to be in the U.S.</p> <p>15 Attorneys office. But I do know both of them.</p> <p>16 Q. And do you know who Joe Pinge --</p> <p>17 Pinjuh is?</p> <p>18 A. Yes, I do. He was actually the guy</p> <p>19 I mentioned as the third author on the paper</p> <p>20 that Carole Rendon and I wrote for my</p> <p>21 professional journal.</p> <p>22 Q. And were Mr. Tame, Mr. Tobin and Mr.</p> <p>23 Pinjuh present when you met with Ms. Rendon</p> <p>24 during your discussion of the Burrage case?</p> <p>25 A. I don't remember who was present in</p>	<p style="text-align: right;">Page 169</p> <p>1 wasn't right afterwards though. I'm sorry. I</p> <p>2 misunderstood you.</p> <p>3 Q. And it was published in a -- a</p> <p>4 journal that's available to the public?</p> <p>5 A. Yes.</p> <p>6 Q. That's the -- the Journal of</p> <p>7 Forensic Examiners, right?</p> <p>8 A. It's the journal called Academic</p> <p>9 Forensic Pathology.</p> <p>10 Q. And -- and it's for forensic</p> <p>11 examiners though, right?</p> <p>12 A. It's for death investigators.</p> <p>13 It's -- at the time it was the official journal</p> <p>14 of the National Association of Medical</p> <p>15 Examiners.</p> <p>16 Q. And the purpose of -- of that</p> <p>17 article was to share to the public the</p> <p>18 information that the members of the attorneys</p> <p>19 generals' office had provided to you in</p> <p>20 connection with the -- the Burrage case; is</p> <p>21 that right?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 THE WITNESS: I -- I think it was to</p> <p>24 address, you know, what we found was an</p> <p>25 interesting discussion in that the burden of</p>

<p style="text-align: right;">Page 170</p> <p>1 proof for a death specification prosecution on 2 the federal level wasn't something I was aware 3 of. 4 And I thought that my colleagues 5 would be interested in knowing that burden of 6 proof and how it would relate to our 7 interactions. 8 Because at this time, you know, our 9 county is becoming, in a lot of ways, a model 10 for a lot of responses to the opioid crisis. 11 And, you know, other U.S. Attorney's offices I 12 think were looking at the prospect of doing 13 these prosecutions. 14 And I felt my colleagues would 15 probably be interacting with them as well, and 16 it would be a useful article to kind of 17 acquaint them with, you know, here's what's 18 kind of driving the strategy behind those 19 prosecutions. 20 Q. Right. 21 So the sum and substance was there 22 was this Supreme Court case, and the -- the 23 prosecutors came in and -- and shared 24 information to you; you found that interesting 25 and thought that that would be interesting,</p>	<p style="text-align: right;">Page 172</p> <p>1 and I've been pretty good. 2 Q. The -- the task included doctors, 3 right? 4 A. There were some doctors there. 5 Representative of the major hospitals would be 6 there. 7 Q. Elected officials? 8 A. Doctors. I would say, you know, 9 Ph.D.-level people level as well. 10 I've -- are you talking about 11 physicians? 12 Q. Either way. 13 I mean tell me if this is fair: The 14 task force included doctors, elected officials, 15 educators, individuals in recovery, and other 16 private citizens. 17 MR. BADALA: Objection to form. 18 THE WITNESS: I didn't know that 19 there were specific people present as private 20 citizens. But obviously we -- the majority of 21 us are citizens within Cuyahoga County. 22 BY MR. CHEFFO: 23 Q. And did you regularly share 24 information -- you or your office share 25 information with the task force regarding</p>
<p style="text-align: right;">Page 171</p> <p>1 that others in your position might find 2 interesting and useful; and that's why you then 3 decided as a group to coauthor a piece. 4 Isn't that the sum and substance of 5 what happened? 6 MR. BADALA: Objection to form. 7 THE WITNESS: I think that's a fair 8 statement on my end, that I wanted to kind of 9 bring that message to my colleagues who might 10 not be familiar with it, as I wasn't familiar 11 really before we had discussed strategies, in 12 terms of their needs for prosecution. 13 BY MR. CHEFFO: 14 Q. And the goal was to publicize this 15 information because you thought it was 16 interesting from a public perspective to have 17 that and useful, right? 18 A. A potential useful thing for 19 somebody in my shoes in another jurisdiction. 20 Q. Did you and Mr. Shannon routinely 21 attend meetings of U.S. Attorney's Heroin and 22 Opioid Task Force? 23 A. He's a better attendee. By that I 24 mean Hugh Shannon. I attend as many as I can. 25 He's been very consistent in his attendance,</p>	<p style="text-align: right;">Page 173</p> <p>1 opioid abuse issues and statistic? 2 A. We have a designated time in most of 3 the task force meetings to present data like 4 this kind of graph that I have in front of me 5 and what we're seeing. 6 There may be other information from 7 the crime laboratory that we also oversee that 8 might get presented there as well. 9 Q. Would that include trends and other 10 information that you were seeing? 11 A. Sure. Yes, it would. 12 Q. And that would be presented to the 13 entire group, right? 14 A. Yes, it would. 15 Q. And if you saw things about an 16 advent or an increase in carfentanyl or 17 adulterated drugs or things that you were 18 seeing that you thought would be informative 19 for the public and others to know, that would 20 be the type of thing that you would report on, 21 correct? 22 A. As it impacted mortality data, yes. 23 Q. Uh-huh. 24 And -- and -- and much of this 25 information was also being shared in press</p>

<p style="text-align: right;">Page 174</p> <p>1 releases or publications that you were putting 2 out or putting on your -- your web site in 3 terms of statistics and other data; is that 4 light? 5 A. Yeah. The press releases I think 6 would usually be used to address things that we 7 had in desire to inform the public about 8 something that was a significant trend. 9 We have a monthly bulletin, if you 10 will, about what we're seeing in the office in 11 trends. That forms frequently the basis of the 12 presentation at the U.S. attorney's task force. 13 We've discussed it at the Board of Health task 14 force as well. The data is the data. 15 But I think we put a lot of 16 information out. And just -- some of it, you 17 know, targeted towards the public; some of it 18 targeted to other audiences. 19 Q. But -- but -- but this information 20 was largely available in various forms; either 21 you had given testimony or press releases or it 22 was on your web site, right? 23 There was no -- this wasn't super 24 secret information, was it? 25 A. Not this information, no.</p>	<p style="text-align: right;">Page 176</p> <p>1 THE WITNESS: The department has 2 been, yes. 3 BY MR. CHEFFO: 4 Q. And -- and have you or the 5 department ever retained Ms. Rendon to 6 represent you as a lawyer? 7 MR. BADALA: Objection to form. 8 THE WITNESS: I have not. I don't 9 -- the department has not. 10 BY MR. CHEFFO: 11 Q. And were there multifaceted efforts 12 to combat the opioid crisis? 13 MR. BADALA: Objection to form. 14 THE WITNESS: I think, you know, we 15 have a lot of people in the county working to 16 address, you know, what is just a public health 17 emergency. So multifaceted. I would look at 18 law enforcement, our medical communities, our 19 medical examiner's office, treatment folks. 20 Yeah. Yes. 21 BY MR. CHEFFO: 22 Q. And are they still ongoing? 23 A. Yes. Because the crisis is not 24 over. 25 Q. And when did they begin?</p>
<p style="text-align: right;">Page 175</p> <p>1 Q. The medical examiner's budget, 2 that's, I take it, a public record? 3 A. Yes. I believe so. 4 Q. And -- and as for the Cuyahoga 5 County medical examine -- examiner, do you know 6 whether you were represented by the law 7 department or law director, members of the law 8 department? 9 MR. BADALA: Objection to form. 10 THE WITNESS: The law department 11 started under the charter. And they have 12 represented the office on some issues, which is 13 a more traditional thing. We've used the 14 county prosecutor as our legal representation 15 as well. 16 And that's -- I say -- by say -- 17 when I say "more traditional," that's the more 18 characteristic relationship in the other 19 counties in Ohio which don't have a charter 20 reform. But in Cuyahoga County, we have been 21 represented by both. 22 BY MR. CHEFFO: 23 Q. So -- but you are represented by the 24 law director and members of the law department? 25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 177</p> <p>1 MR. BADALA: Objection to form. 2 THE WITNESS: When did -- 3 BY MR. CHEFFO: 4 Q. The multifaceted efforts to combat 5 the opioid situation, the crisis, is that 6 something that's been ongoing for a long time? 7 a short time? 8 When did start? 9 MR. BADALA: Objection to form. 10 THE WITNESS: With my involvement, I 11 would say, you know, we start when we 12 identified the heroin crisis. And then 13 activities are, you know, added to that. And, 14 you know, that continues up to this day. 15 BY MR. CHEFFO: 16 Q. Can you give me a time frame? 17 MR. BADALA: Objection to form. 18 BY MR. CHEFFO: 19 Q. Time frame? 20 A. For? 21 Q. When it started, these multifaceted 22 activities. 23 A. Well, they've been ongoing with the 24 different task forces. So, you know, we could 25 go back to 2013 when we would have the poison</p>

<p style="text-align: right;">Page 178</p> <p>1 death review committee with lots of different 2 representation. You know, since then the 3 summits, both of them, with the U.S. Attorney's 4 office. 5 I'd be reluctant to say, you know, 6 this was the absolute date we started to 7 address the heroin crisis or the heroin phase 8 of the opioid crisis. 9 I don't know firsthand, you know, if 10 there were efforts going on beforehand in the 11 county. But I'm just not familiar with -- I 12 wasn't aware of them particularly. 13 Yeah. Best I -- best I could deal 14 with that. 15 MR. CHEFFO: Okay. Break? 16 MR. BADALA: Yeah. 17 MR. CHEFFO: Okay. 18 THE VIDEOGRAPHER: We are going off 19 the record. 20 The time is 12:28. 21 (A lunch recess was taken.) 22 THE VIDEOGRAPHER: We are back on 23 the record. 24 The time is 1:14. 25 You may proceed, Counsel.</p>	<p style="text-align: right;">Page 180</p> <p>1 that's a risk they are taking. 2 BY MR. CHEFFO: 3 Q. Is all of the information in your 4 file available to the public? 5 MR. BADALA: Objection to form. 6 BY MR. CHEFFO: 7 Q. When you do a -- an autopsy and -- 8 report and investigation of a -- of a death? 9 A. The autopsy report is a public 10 document in Ohio. There's also a verdict that 11 we generate as a statutory piece. And the 12 toxicology report is available at my 13 discretion. We usually release that. 14 The investigative report is not 15 considered a public document. But the way the 16 statute is written, in Ohio, next of kin can 17 have access to any document in our file. So 18 what they do with that and if they disseminate 19 that publicly, we can't stop. 20 But the law spells out like 21 journalists can't see everything in our file 22 necessarily. And -- yeah. I think -- hope I 23 answered your question. 24 Q. You did. 25 So as a general matter, let's say a</p>
<p style="text-align: right;">Page 179</p> <p>1 BY MR. CHEFFO: 2 Q. Dr. Gilson, you would agree with me 3 that trying to understand or determine the 4 intent or reasoning or motivations of someone 5 who was using an opioid who overdosed is 6 challenged by the fact that they're -- they've 7 expired, just like you testified earlier with 8 someone who died of a cocaine overdose? 9 A. I mean they're intending to use 10 drugs, for the most part, if I understand your 11 question. I wouldn't think that they were -- 12 I'm not sure I understand exactly what you're 13 asking. 14 Q. Understanding the questions about 15 whether they intend to harm themselves, whether 16 they intend to get some type of high, those are 17 questions that are, if not impossible, 18 extremely difficult to determine because they 19 have expired, right? 20 MR. BADALA: Objection to form. 21 THE WITNESS: As -- as I would say, 22 you know, I think they are not intending to use 23 drugs, I don't think. Based on what I've read 24 and people I've talked to, they're intending to 25 harm themselves. But unfortunately, I think</p>	<p style="text-align: right;">Page 181</p> <p>1 journalist was interested in a particular 2 death, and they sent a letter -- either just a 3 cordial letter under some kind of FOIA, Freedom 4 of Information, saying "We'd like all materials 5 in connection with your investigation or review 6 or determination of death for Mr. Smith." 7 What would they -- what would they 8 typically get? 9 What types of information would they 10 get from your office? 11 A. You know, I've worked in different 12 jurisdictions. And Ohio is a little bit 13 different in that there's a specific journalist 14 exception. So they can view a file, as long as 15 it's not like an open homicide investigation. 16 They're not permitted to take notes while 17 they're viewing the file. 18 But it's called the journalist 19 exception. So they can see nonpublic parts of 20 the file and look at them but not take any 21 notes. They can take away what they can 22 remember. 23 We usually, in response to media 24 requests, release the public part of the file. 25 And it's kind of the exception where we've had</p>

<p style="text-align: right;">Page 182</p> <p>1 journalist exception.</p> <p>2 But that's my understanding of it.</p> <p>3 They get to see more things, including like my</p> <p>4 investigator's report, as long as it doesn't</p> <p>5 impact a criminal investigation.</p> <p>6 Q. And that's just what I'm trying to</p> <p>7 understand. I mean you're -- you're the expert</p> <p>8 in this. And I have a, you know, general</p> <p>9 understanding of the files, and I've looked</p> <p>10 through them.</p> <p>11 But is the only thing that is</p> <p>12 different, nonpublic, is that the</p> <p>13 investigator's report in the file and maybe the</p> <p>14 tox studies or anything else that would be not</p> <p>15 available to the public but either available to</p> <p>16 a journalist or next of kin?</p> <p>17 A. Again, as I say, everything's</p> <p>18 available to next of kin. But things like</p> <p>19 hospital records, police reports and things</p> <p>20 like that we usually don't share because it's</p> <p>21 not our primary work product.</p> <p>22 We don't share investigative report</p> <p>23 because it's a preliminary investigative</p> <p>24 report. So that's not a public document.</p> <p>25 You know, some files have other</p>	<p style="text-align: right;">Page 184</p> <p>1 the state Board of Health?</p> <p>2 A. Which --</p> <p>3 Q. You -- you mentioned the Board of</p> <p>4 Health task force -- heroin task force.</p> <p>5 A. Right. That's the Cuyahoga County</p> <p>6 Board of Health.</p> <p>7 Q. Okay.</p> <p>8 A. That was through their injury</p> <p>9 prevention program.</p> <p>10 Q. And in 2011 there were 107 instances</p> <p>11 where someone who overdosed had heroin in their</p> <p>12 system and 98 where they had cocaine, is that</p> <p>13 right, based on the --</p> <p>14 A. If I can just take a look quickly.</p> <p>15 Yes.</p> <p>16 Q. Now --</p> <p>17 A. 2011. I'm sorry. That was the</p> <p>18 year?</p> <p>19 Q. Right. That's what I said.</p> <p>20 A. I just wanted to make sure.</p> <p>21 Q. And if you just look at for a minute</p> <p>22 the -- the cocaine deaths in Exhibit 1 on -- on</p> <p>23 Page 4 in the red line.</p> <p>24 You with me, right?</p> <p>25 A. Uh-huh. Yes, I am.</p>
<p style="text-align: right;">Page 183</p> <p>1 things in them that -- I can't be exhaustive on</p> <p>2 what's public, what's not.</p> <p>3 But certainly the law is written in</p> <p>4 Ohio, next of kin, if they want to see what's</p> <p>5 in the medical examiner or coroner's file, they</p> <p>6 can see what's in there.</p> <p>7 Q. Okay. Can you turn back to Exhibit</p> <p>8 1 for a minute.</p> <p>9 Let me just you ask this: First of</p> <p>10 all, is there a -- is there currently a cocaine</p> <p>11 task force?</p> <p>12 MR. BADALA: Objection to form.</p> <p>13 THE WITNESS: Not that I'm aware of.</p> <p>14 BY MR. CHEFFO:</p> <p>15 Q. Has there ever been one in Cuyahoga?</p> <p>16 A. Not since I've been here.</p> <p>17 Q. When was the heroin task force</p> <p>18 initiated?</p> <p>19 A. Well, there's the two. So the Board</p> <p>20 of Health I -- I think it's 2011 or 2010. The</p> <p>21 U.S. Attorney's task force I believe started</p> <p>22 after the Summit, which would have been in</p> <p>23 November 2013.</p> <p>24 Q. So 2011, when you say the Board of</p> <p>25 Health, that's the county Board of Health or</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. Now, you mention that in I believe</p> <p>2 2016 there was an increase above baseline in</p> <p>3 cocaine-related overdose deaths that you</p> <p>4 attributed to fentanyl.</p> <p>5 Is that accurate?</p> <p>6 A. Yes.</p> <p>7 Q. And is it then fair to say that the</p> <p>8 baseline of cocaine deaths prior to that point</p> <p>9 were not associated with opioids or fentanyl?</p> <p>10 A. I don't think I could say that.</p> <p>11 Because I know that, the way this graph is</p> <p>12 generated, if cocaine appears on the death</p> <p>13 certificate, it would be in that red line.</p> <p>14 Whether it was mixed with opioid pain</p> <p>15 relievers, heroin, fentanyl, I wouldn't know --</p> <p>16 Q. Okay.</p> <p>17 A. -- based on looking at this. And I</p> <p>18 don't know that answer either right now.</p> <p>19 Q. Well, based on your -- your -- your</p> <p>20 time at the department, are -- are you -- is it</p> <p>21 your view that, prior to the 2016 spike in the</p> <p>22 cocaine deaths, the -- the driver or the</p> <p>23 baseline of cocaine use and overdose had</p> <p>24 nothing to do with opioids?</p> <p>25 MR. BADALA: Objection to form.</p>

<p style="text-align: right;">Page 186</p> <p>1 THE WITNESS: I don't know that I</p> <p>2 could say that.</p> <p>3 BY MR. CHEFFO:</p> <p>4 Q. Can you say that it did have</p> <p>5 anything to do with opioids?</p> <p>6 A. No. I could not say either way. I</p> <p>7 haven't really looked at that. We focused more</p> <p>8 on it when we saw the rise that we saw in 2016</p> <p>9 and compared it to the baseline again when we</p> <p>10 factored out the contribution of the mixtures</p> <p>11 with fentanyl. And then the baseline kind of</p> <p>12 stayed about the same.</p> <p>13 But whether that baseline -- it</p> <p>14 certainly wasn't tied in with fentanyl.</p> <p>15 Whether it was tied in with heroin and been,</p> <p>16 that I can't say with certainty.</p> <p>17 Q. And prior to 2016, there were costs</p> <p>18 associated to your department for investigating</p> <p>19 and doing autopsies for cocaine-related deaths;</p> <p>20 is that right?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: Costs in terms of just</p> <p>23 doing investigations.</p> <p>24 BY MR. CHEFFO:</p> <p>25 Q. Right.</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. What do you mean by that?</p> <p>2 A. In terms of looking at the opioid</p> <p>3 crisis now from kind of a public health</p> <p>4 perspective, CDC has written about the phases</p> <p>5 of the heroin -- or not the heroin -- the</p> <p>6 opioid crisis.</p> <p>7 And those phases are kind of in an</p> <p>8 initial phase with opioid pain relievers, our</p> <p>9 heroin phase, and a fentanyl and fentanyl</p> <p>10 analog phase. And the heroin phase is kind of</p> <p>11 what I see when I land in Cuyahoga County when</p> <p>12 I got here in 2011.</p> <p>13 Q. So -- I'm sorry. Tell me that</p> <p>14 again.</p> <p>15 It was the first one -- how did you</p> <p>16 characterize it?</p> <p>17 A. Opioid pain relievers.</p> <p>18 Q. Okay. Opioid pain relievers, then</p> <p>19 heroin, then fentanyl and fentanyl analogs?</p> <p>20 A. Right. That's based on our</p> <p>21 understanding now as to how the opioid crisis</p> <p>22 has evolved.</p> <p>23 Q. And is it your view that every</p> <p>24 overdose that -- where someone used heroin is,</p> <p>25 in whole or part, related to the conduct of the</p>
<p style="text-align: right;">Page 187</p> <p>1 I mean looking at these numbers, you</p> <p>2 had -- other than 2011, you had over a hundred</p> <p>3 deaths a year that were related to -- to</p> <p>4 cocaine, right?</p> <p>5 A. Right.</p> <p>6 Q. And there were significant resources</p> <p>7 expended on investigating those overdose</p> <p>8 deaths.</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 THE WITNESS: We would routinely</p> <p>11 have, you know, a death investigator respond to</p> <p>12 a scene of an overdose death, be it cocaine or</p> <p>13 any of the other drugs.</p> <p>14 We would, unless there had been an</p> <p>15 interval of survival, conduct an autopsy,</p> <p>16 which, you know, does factor into cost. And</p> <p>17 then the toxicology piece of that would also</p> <p>18 be, you know, expenses that would be kind of</p> <p>19 marginally added on top of them.</p> <p>20 BY MR. CHEFFO:</p> <p>21 Q. You mentioned something before our</p> <p>22 break. You said, "the heroin phase of the drug</p> <p>23 crisis."</p> <p>24 Do you remember that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 189</p> <p>1 defendants in this lawsuit?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 THE WITNESS: Not opioid overdoses.</p> <p>4 But I think many of them.</p> <p>5 BY MR. CHEFFO:</p> <p>6 Q. What -- what -- what are the</p> <p>7 differentiation points?</p> <p>8 A. Well, if you go back into Cuyahoga</p> <p>9 County death records, people overdosed on</p> <p>10 heroin in the 1970s. There was a heroin crisis</p> <p>11 in the country. I don't know Cuyahoga County</p> <p>12 specifically.</p> <p>13 And that population could still</p> <p>14 exist in 2012, 2013, '14, '15, when we're</p> <p>15 seeing this elevation in deaths. But what</p> <p>16 we're able to do is say, "There's an elevation</p> <p>17 here, and that's related to the conduct of the</p> <p>18 defendants."</p> <p>19 But whether, you know, that baseline</p> <p>20 goes away, I don't think that that would be a</p> <p>21 very honest thing to say.</p> <p>22 Q. What is the baseline? What</p> <p>23 percentage?</p> <p>24 A. I couldn't say with certainty.</p> <p>25 Q. Well, in order to know if there is</p>

<p style="text-align: right;">Page 190</p> <p>1 an increased, don't you have to know the 2 baseline?</p> <p>3 A. No. I think, you know, you can look 4 at this data and see there's substantial 5 increase in mortality. And as we look at this 6 and go back and look at its relationship to 7 opioid practices and prescribing -- pardon 8 me -- opioid prescribing, these folk are 9 overrepresented from the general population in 10 having access to opioid pain relievers.</p> <p>11 And then, you know, when we finally 12 get 2012 data, we see some part of that 13 picture, but it's incomplete because of the 14 deidentified data.</p> <p>15 I think, as we get better data in 16 2013 and 2014 to analyze, then I think that's 17 when we start to really have an appreciation of 18 the opioid crisis as an evolutionary thing from 19 opioid pain relievers to heroin and then 20 ultimately to fentanyl.</p> <p>21 Q. Let's -- let's -- we can talk some 22 individual just, you know, examples.</p> <p>23 If somebody was, let's say, 24 unfortunately, 21 years old, never had used an 25 opioid, and in 2012 or '13 overdosed on heroin,</p>	<p style="text-align: right;">Page 192</p> <p>1 BY MR. CHEFFO: 2 Q. Is there -- you would agree with me 3 that there's a baseline of people in Cuyahoga 4 County and the county who have addictive 5 personalities and abuse drugs or substances, 6 whether they be alcohol, cocaine, cough syrup, 7 and various other things, including fentanyl, 8 heroin and carfentanil, right?</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 THE WITNESS: I mean drug addiction 11 didn't start with the actions of the 12 defendants.</p> <p>13 BY MR. CHEFFO: 14 Q. Right. 15 So if somebody took illicit fentanyl 16 from a drug cartel and never took an opioid -- 17 a prescription opioid, in fact, never saw a 18 doctor for any legitimate pain issue, do the 19 defendants in this case have any responsibility 20 for that?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: Yes, they do.</p> <p>23 BY MR. CHEFFO: 24 Q. How? 25 A. The drug cartels don't operate in a</p>
<p style="text-align: right;">Page 191</p> <p>1 is that, in whole or part, related to the 2 conduct of the defendants in this lawsuit?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 THE WITNESS: Obviously, if they 5 haven't taken an opioid pain reliever, I would 6 say, you know, they can't directly tie it.</p> <p>7 The prevalence of heroin in this 8 community was created by a demand that came 9 from this opioid-addicted population, who did 10 make transitions into heroin so that heroin 11 coming into this county at a higher rate than 12 it had been seen before is referable back to 13 the actions of the defendants, I think.</p> <p>14 BY MR. CHEFFO: 15 Q. But what about -- there -- there's 16 been problems with drugs like crack and -- and 17 -- and cocaine and other drugs, right, and PCP 18 and -- and -- and marijuana.</p> <p>19 Those are not attributable to 20 opioids, are they?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: I wouldn't think so. 23 Because the -- again, the action of the opioid 24 pain relievers isn't similar to those drugs 25 like it is to the heroin and to the fentanyl.</p>	<p style="text-align: right;">Page 193</p> <p>1 vacuum. They're responding to an opportunity 2 with an increase in demand for opioids in 3 general.</p> <p>4 So in the creation of an 5 opioid-addicted population by overprescribing, 6 overdistribution, we create a group of people 7 who are opioid addicted.</p> <p>8 From there, you know, we evolve into 9 the heroin phase, the fentanyl phase --</p> <p>10 Q. I -- 11 A. No, no. Please let me finish. 12 Q. Well -- 13 A. Because it's complicated, I think. 14 Q. You've answered this.</p> <p>15 MR. BADALA: But you -- 16 MR. CHEFFO: Go ahead. 17 MR. BADALA: Finish your -- 18 MR. CHEFFO: Go ahead.</p> <p>19 THE WITNESS: And, you know, if we 20 looked at the heroin epidemic in the '70s, for 21 example, there wasn't a large-scale, you know, 22 prescribing of pain medication right before 23 that. So those individuals largely were 24 recruited by active other users. 25 But that recruitment population that</p>

<p style="text-align: right;">Page 194</p> <p>1 we see in Cuyahoga County, who may be grabbing</p> <p>2 that 21-year-old and saying, "This is great.</p> <p>3 You should try this, even though you haven't</p> <p>4 had the prescription pain medication," that</p> <p>5 group, in large measure, was created by the</p> <p>6 defendants.</p> <p>7 MR. CHEFFO: Okay.</p> <p>8 THE WITNESS: And it is referable</p> <p>9 back to --</p> <p>10 BY MR. CHEFFO:</p> <p>11 Q. So --</p> <p>12 A. -- those actions.</p> <p>13 Q. So -- so that's your connection?</p> <p>14 If somebody was -- but even within</p> <p>15 that group, do you know whether that -- do you</p> <p>16 have to know whether the person who is the</p> <p>17 recruiter actually ever took a -- a lawful</p> <p>18 opioid?</p> <p>19 So if a 23-year-old person who never</p> <p>20 took a lawful opioid started using heroin</p> <p>21 because he was introduced to it through some</p> <p>22 other street drug and then introduced the</p> <p>23 21-year-old person, that's -- that's related to</p> <p>24 the defendant's conduct?</p> <p>25 A. As I say, you know, there's going to</p>	<p style="text-align: right;">Page 196</p> <p>1 think, you know, they're very astute business</p> <p>2 people.</p> <p>3 Q. Capitalism?</p> <p>4 A. Well, I don't know. But I think</p> <p>5 they see an opportunity in an addicted</p> <p>6 population to start to infiltrate --</p> <p>7 Q. Okay.</p> <p>8 A. Heroin and fentanyl, illicitly</p> <p>9 manufactured fentanyl. And I do think that</p> <p>10 gets referable back to the creation of an</p> <p>11 addicted --</p> <p>12 Q. Okay.</p> <p>13 A. -- population.</p> <p>14 Q. But how much -- and I asked you</p> <p>15 though something different.</p> <p>16 What percentage?</p> <p>17 Tell me what percentage you put on</p> <p>18 the cartels who are actually making hundreds of</p> <p>19 millions or billions who ship it here</p> <p>20 illegally, and a 21-year-old buys a laced</p> <p>21 fentanyl?</p> <p>22 In the entire picture -- we</p> <p>23 understand you've said everything's ultimately</p> <p>24 related to the defendants in the lawsuit.</p> <p>25 But tell me what percentage are from</p>
<p style="text-align: right;">Page 195</p> <p>1 be a baseline of addicts before opioid pain</p> <p>2 relievers. And I would say though that that</p> <p>3 baseline, that population of addicts, increased</p> <p>4 substantially in this county in the wake of</p> <p>5 opioid pain prescribing practices and</p> <p>6 distribution practices by the defendants.</p> <p>7 So do I say that guy didn't use, and</p> <p>8 that guy didn't use, and I can't refer that</p> <p>9 back? That is possibly true for some of these</p> <p>10 folks. But I think, in large measure, this</p> <p>11 crisis is referable back to the actions of the</p> <p>12 defendants.</p> <p>13 Q. How much blame do you put on the</p> <p>14 drug cartels who are actually bringing it into</p> <p>15 Cuyahoga and selling it and making the money?</p> <p>16 What percentage of the crisis</p> <p>17 belongs on -- on their responsibility?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 THE WITNESS: I'd have to say I</p> <p>20 don't like these people, but the drug cartel is</p> <p>21 responding to a market where they think they</p> <p>22 can make money.</p> <p>23 BY MR. CHEFFO:</p> <p>24 Q. They're business people?</p> <p>25 A. And the market -- in some ways I</p>	<p style="text-align: right;">Page 197</p> <p>1 the cartels.</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 THE WITNESS: I don't think I could</p> <p>4 do that.</p> <p>5 BY MR. CHEFFO:</p> <p>6 Q. Is it zero?</p> <p>7 A. No. It's --</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 THE WITNESS: -- definitely not --</p> <p>10 BY MR. CHEFFO:</p> <p>11 Q. Definitely not zero, right?</p> <p>12 A. No.</p> <p>13 Q. Not a hundred percent though, right?</p> <p>14 A. I don't think so. Because we have</p> <p>15 that baseline population who, you know, came</p> <p>16 from -- you know, came to drug addiction</p> <p>17 through things before there was a problem with</p> <p>18 overprescribing and overdistribution.</p> <p>19 Q. But they're certainly as culpable as</p> <p>20 the defendants in this lawsuit, right?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. In your view?</p> <p>24 MR. BADALA: Objection to form.</p> <p>25 THE WITNESS: Who are we talking</p>

<p style="text-align: right;">Page 198</p> <p>1 about now that's culpable?</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. The -- the manufacturers,</p> <p>4 distributors.</p> <p>5 I'm saying basically you've told us</p> <p>6 there's culpability for the actual drug cartels</p> <p>7 who are, you know, essentially murdering folks,</p> <p>8 shipping in drugs that are being used on the</p> <p>9 streets of Cuyahoga, right?</p> <p>10 There's some culpability.</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 THE WITNESS: They bear a</p> <p>13 responsibility --</p> <p>14 MR. CHEFFO: Right.</p> <p>15 THE WITNESS: -- for what --</p> <p>16 BY MR. CHEFFO:</p> <p>17 Q. And -- and --</p> <p>18 A. -- they're doing --</p> <p>19 Q. -- it's --</p> <p>20 A. -- criminal activity.</p> <p>21 Q. It's not zero percent, and it's not</p> <p>22 a hundred percent, right?</p> <p>23 A. For the --</p> <p>24 Q. The responsibility.</p> <p>25 A. -- drug cartel or for the --</p>	<p style="text-align: right;">Page 200</p> <p>1 in million or hundred of millions of dollars</p> <p>2 into this community, and then people are dying,</p> <p>3 right?</p> <p>4 We can agree on that.</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 BY MR. CHEFFO:</p> <p>7 Q. Can we?</p> <p>8 A. Everybody reasonable would agree</p> <p>9 with that I think.</p> <p>10 Q. Right.</p> <p>11 And so what I'm just trying to find</p> <p>12 out is you've told us in some way -- and in</p> <p>13 some way it's removed, right -- to conduct and</p> <p>14 -- and people having addiction and introducing</p> <p>15 others.</p> <p>16 And I just want to understand what</p> <p>17 -- what percentage and how culpable.</p> <p>18 And -- and if you can't give me</p> <p>19 percentages, are the drug cartels more culpable</p> <p>20 than a distributor or manufacturer?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: I -- I can't give you</p> <p>23 percentages. I feel the crisis, as we looked</p> <p>24 retrospectively, falls back to the defendants.</p> <p>25 And the drug cartels are part of the sequence</p>
<p style="text-align: right;">Page 199</p> <p>1 Q. Yes.</p> <p>2 A. -- defendants?</p> <p>3 Q. The -- let's talk about the drug</p> <p>4 cartels.</p> <p>5 A. Again, I'd have to go back to why</p> <p>6 are the drug cartels bringing drugs into</p> <p>7 Cuyahoga County. And it's because we have a</p> <p>8 drug-addicted population.</p> <p>9 Q. I understand.</p> <p>10 But they're not -- they're not --</p> <p>11 it's not right for them to do this.</p> <p>12 You would agree with me on that,</p> <p>13 right?</p> <p>14 MR. BADALA: Objection to form.</p> <p>15 THE WITNESS: Sure. I mean.</p> <p>16 MR. CHEFFO: Right.</p> <p>17 THE WITNESS: -- nobody wants to see</p> <p>18 that.</p> <p>19 BY MR. CHEFFO:</p> <p>20 Q. What -- what --</p> <p>21 A. But --</p> <p>22 Q. What they're doing is engaging in --</p> <p>23 I mean we're -- you're really not going to</p> <p>24 argue with me that -- that a drug cartel from</p> <p>25 Mexico is not doing something wrong by bringing</p>	<p style="text-align: right;">Page 201</p> <p>1 of events, if you will. But the crisis is</p> <p>2 started with the distributors and --</p> <p>3 BY MR. CHEFFO:</p> <p>4 Q. Would we have a crisis --</p> <p>5 A. -- the manufacturers.</p> <p>6 Q. -- if we didn't have drug cartels?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 BY MR. CHEFFO:</p> <p>9 Q. Where -- where is the illicit heroin</p> <p>10 and fentanyl coming from, Doctor?</p> <p>11 A. This --</p> <p>12 MR. BADALA: Which question are you</p> <p>13 asking? You just asked two questions.</p> <p>14 MR. CHEFFO: That's okay.</p> <p>15 MR. BADALA: Okay. Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: Which one would you</p> <p>18 like me to answer, sir?</p> <p>19 BY MR. CHEFFO:</p> <p>20 Q. Where is it coming from?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: Based on my</p> <p>23 discussions with law enforcement, a lot of the</p> <p>24 heroin that entered the county came from</p> <p>25 Mexico. A lot of fentanyl was manufactured in</p>

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1 China. It may have passed through drug cartels  
 2 in other parts of the world, including Mexico,  
 3 or it may have been directly accessed over the  
 4 Internet by individuals in Cuyahoga County with  
 5 no intermediary.  
 6 BY MR. CHEFFO:  
 7 Q. If -- if none of that was -- was  
 8 sent in from Mexico or China or any other  
 9 country that may have done it, would we have a  
 10 fentanyl or heroin crisis today?  
 11 MR. BADALA: Objection to form.  
 12 THE WITNESS: If the drugs aren't  
 13 here, the people can't overdose on them.  
 14 But --  
 15 BY MR. CHEFFO:  
 16 Q. Right.  
 17 Is that --  
 18 A. -- I think, you know, that's a very  
 19 abstract question. Because the drugs are here,  
 20 and we lose hundreds of people every year to  
 21 drug overdoses.  
 22 Q. Who -- who's -- who's bringing the  
 23 drugs in?  
 24 MR. BADALA: Objection to form.  
 25 BY MR. CHEFFO:

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1 Q. The cartels, right?  
 2 MR. BADALA: Same objection.  
 3 THE WITNESS: As I say, you know,  
 4 cartels are responsible for some. Internet  
 5 sales over the dark web and things like that  
 6 are responsible for others. I don't know that  
 7 general --  
 8 BY MR. CHEFFO:  
 9 Q. Are any of the --  
 10 A. -- distribution.  
 11 Q. -- defendants in this case bringing  
 12 in illegal drugs into Cuyahoga County?  
 13 MR. BADALA: Objection to form.  
 14 THE WITNESS: Not that I know of.  
 15 BY MR. CHEFFO:  
 16 Q. And so for all of those people who  
 17 are engaging in illegal conduct and selling  
 18 unlawfully dangerous illegal drugs, what  
 19 percentage of -- of -- of fault do you  
 20 attribute to them?  
 21 MR. BADALA: Objection to form.  
 22 Asked and answered.  
 23 THE WITNESS: Again, I can't give  
 24 you a specific percentage.  
 25 BY MR. CHEFFO:

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1 Q. Is it more than 1 percent?  
 2 MR. BADALA: Objection to form.  
 3 THE WITNESS: -- I I'm not going to  
 4 play a game. I can't give you a number.  
 5 BY MR. CHEFFO:  
 6 Q. Why not?  
 7 A. Because I don't know.  
 8 Q. Well, I'm asking for your own  
 9 personal opinion.  
 10 MR. BADALA: Same objections.  
 11 THE WITNESS: Same answer too. I  
 12 mean I don't know what percentage. I can't  
 13 give you that.  
 14 BY MR. CHEFFO:  
 15 Q. What percentage are attributable to  
 16 the defendants in this lawsuit?  
 17 A. What's that then?  
 18 Q. What percentage are attributable to  
 19 the defendants in this lawsuit?  
 20 MR. BADALA: Objection to form.  
 21 THE WITNESS: There's literature  
 22 that describes what percentage of the  
 23 heroin-addicted population initiated with  
 24 opioid pain medication. As I say --  
 25 BY MR. CHEFFO:

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1 Q. We'll talk about that.  
 2 A. Pardon me?  
 3 Q. We'll talk about that.  
 4 But I was asking you a different --  
 5 I was asking for your opinion.  
 6 Do you have an opinion as to what  
 7 percentage of the opioid crisis in Cuyahoga is  
 8 attributable to the defendants in this  
 9 litigation?  
 10 A. No, I do not.  
 11 Q. What percentage are the doctors who  
 12 were engaging in illegal conduct; are they  
 13 responsible in any way?  
 14 MR. BADALA: Objection to form.  
 15 THE WITNESS: I think that, again,  
 16 they're in the chain. But ultimately their  
 17 actions stem from the opioid crisis created by  
 18 the actions of the defendants.  
 19 BY MR. CHEFFO:  
 20 Q. So then they shouldn't go to jail,  
 21 right, if they had no culpability?  
 22 A. Oh, we didn't say that at all.  
 23 MR. BADALA: Objection to form.  
 24 BY MR. CHEFFO:  
 25 Q. So why should they go to jail?

<p style="text-align: right;">Page 206</p> <p>1 A. Because they're conducting illegal 2 activities. They're a part of the problem. 3 Q. Okay. 4 A. But their actions -- again, the pill 5 mill, that person should go to jail. I don't 6 think any of us would go agree with that. 7 But why does a pill mill exist? 8 Because there's an addicted population who are 9 going to pay cash money to that unscrupulous 10 provider to get medication they are addicted 11 to. 12 Q. Well, but what if they were selling 13 amphetamines? 14 Does that have anything to do with 15 the opioid crisis? 16 A. Amphetamines aren't opioids. So I 17 could say they may, you know, have a business 18 model that they're using to sell whatever 19 somebody comes in and asks for. And I wouldn't 20 say that the amphetamines are referable back to 21 the practices of the defendants. But the 22 opioids I would say are. 23 Q. So let -- let's just see if we can 24 go through them. 25 Cartels have some responsibility,</p>	<p style="text-align: right;">Page 208</p> <p>1 as I understand it. 2 BY MR. CHEFFO: 3 Q. How many doctors who engage in 4 illegal conduct are in this lawsuit? 5 A. In this -- 6 MR. BADALA: Objection to form. 7 THE WITNESS: Pardon me. 8 In this lawsuit I -- I don't see 9 any -- there have been prosecutions of those 10 individuals, both the cartels and the pill mill 11 doctors, in separate criminal proceedings. But 12 they're -- 13 MR. CHEFFO: Okay. 14 THE WITNESS: -- not mention in this 15 lawsuit. 16 BY MR. CHEFFO: 17 Q. How many pill mills are in this 18 lawsuit? 19 A. What I would consider the pill mill, 20 none. 21 Q. How many street dealers of drugs are 22 in this lawsuit? 23 A. I'd say none. 24 Q. Do any of those four categories you 25 would agree with -- strike that.</p>
<p style="text-align: right;">Page 207</p> <p>1 but you can't tell me -- you can't quantify it, 2 fair? 3 MR. BADALA: Objection to form. 4 THE WITNESS: Right. I can't give 5 you a percentage what responsibility. 6 BY MR. CHEFFO: 7 Q. Doctors who engage in illegal 8 prescribing have some responsibility, but you 9 can't quantify it, fair? 10 A. Fair. I mean they're all kind of 11 referable back to the actions of the 12 defendants, as I said. But, you know, 13 obviously we're not blessing the cartels and 14 saying they're nice people or that people who 15 ran pill mills didn't do their damage. I just 16 -- 17 Q. Are you suing them? 18 A. -- think it was referable back to 19 the actions of the defendants creating that 20 drug-addicted population. 21 Q. How many -- how many cartels are in 22 this lawsuit? 23 MR. BADALA: Objection to form. 24 THE WITNESS: It's just the 25 pharmaceutical companies and the distributors,</p>	<p style="text-align: right;">Page 209</p> <p>1 You would agree with me that, of 2 those four categories, they have some 3 culpability, but you can't quantify it, right? 4 MR. BADALA: Objection to form. 5 THE WITNESS: They're a part of this 6 process of an opioid crisis. But again, you 7 know, overprescribing, overdistributing in this 8 area creates that crisis. And they are, you 9 know, degrees of separation away from that 10 process. But ultimately it's that process that 11 I think sets us in to this result. 12 BY MR. CHEFFO: 13 Q. You -- let me ask you. 14 Has any expert ever told you that 15 that's the case that, there is a kind of -- and 16 everything that happens today with a drug 17 cartel or a street dealer or a criminal doctor 18 somehow is related to something that happened 19 with the defendants in this lawsuit? 20 Have you heard an expert tell you 21 that? 22 MR. BADALA: Objection to form. 23 THE WITNESS: I've had discussions 24 with a lot of people. And I think there's a 25 consensus that, when we talk about the opioid</p>

<p style="text-align: right;">Page 210</p> <p>1 crisis, the genesis is back with the -- looking 2 retrospectively, is back at the prescribing and 3 distribution practices of the defendants; and 4 that these cartels and things, when I discuss 5 them with law enforcement, you know, is a 6 population again that we're kind of seeing 7 addicted to opioids and changing substances. 8 But if I understood your question 9 correctly, the interpretation would be that the 10 crisis, as we understand it, starts back with 11 prescribing and distribution and evolves into 12 other more criminal activities. 13 BY MR. CHEFFO: 14 Q. Do -- do -- do pharmaceuticals 15 companies prescribe anything? 16 You said that three times. 17 Do -- do -- are you aware of whether 18 pharmaceutical companies, as a doctor, 19 prescribe medicines; or is that something 20 doctors do? 21 A. Doctors do. But there -- 22 Q. Right. 23 A. -- were influences of the prescribe 24 -- of the manufacturers -- 25 Q. So --</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. -- illegally for opioids that are 2 then abused or diverted, is there any 3 relationship or any culpability from the 4 defendants? 5 MR. BADALA: Objection to form. 6 THE WITNESS: I don't think so. 7 BY MR. CHEFFO: 8 Q. So you would want to know at least 9 whether the person who was writing the 10 prescriptions had any influence from any of the 11 defendants, right, before you would make a 12 determination that they had some culpability 13 based on defendant's conduct, right? 14 MR. BADALA: Objection to form. 15 THE WITNESS: I would want to know 16 the role of the defendants in terms of 17 influencing prescribing practices. 18 BY MR. CHEFFO: 19 Q. Right. 20 And -- why? 21 A. Because it's relevant to the 22 overprescribing -- 23 Q. And -- 24 A. -- that we saw. 25 Q. Okay. And if -- if there was no</p>
<p style="text-align: right;">Page 211</p> <p>1 A. -- on those prescribing practices. 2 Q. -- if somebody comes out of medical 3 school and never saw a pharmaceutical rep today 4 and improperly and illegally prescribes 5 opioids, it's your testimony under oath that 6 that somehow is related to the defendant of 7 this -- the defendant's conduct; is that right? 8 MR. BADALA: Objection to form. 9 THE WITNESS: No. I wouldn't say 10 that. 11 BY MR. CHEFFO: 12 Q. Okay. So -- so if that person wrote 13 the prescriptions, and they had never had any 14 influence from any pharmaceutical company or 15 any distributor, you would agree with me that 16 none of their conduct or none of those 17 prescriptions have anything to do with the 18 defendants, right? 19 MR. BADALA: Objection to form. 20 THE WITNESS: I'm trying to follow 21 you. If someone comes out of medical school -- 22 BY MR. CHEFFO: 23 Q. Uh-huh. And -- and writes 24 prescriptions -- 25 A. Writes a prescription for --</p>	<p style="text-align: right;">Page 213</p> <p>1 role -- let's assume a doctor never worked at 2 an institution where there was never any 3 detailing or never any role. 4 That would change your view as to 5 whether the company had any -- or the 6 defendants had any culpability, right? 7 MR. BADALA: Objection to form. 8 THE WITNESS: There may be other 9 ways that they would influence prescribing 10 practices. 11 BY MR. CHEFFO: 12 Q. But -- but you'd at least want to 13 understand what -- what the influences and 14 their prescribing practices were before you 15 made a determination that there was 16 culpability, right? 17 So in other words, if there was 18 influencing that you thought was improper from 19 a defendant that influenced a doctor, you would 20 assess some liability or culpability, right? 21 A. Yes. I think, in creating that 22 culture of undertreatment of pain, the safety 23 of opioid pain relievers influencing, you know, 24 legislation and practice guidelines, that is 25 referable back to the defendants.</p>

<p style="text-align: right;">Page 214</p> <p>1 Q. And if there was no influence on a 2 prescriber's prescribing based on any conduct 3 of any defendant, then you would not assess 4 culpability, right? 5 A. You're -- you're -- I'm not 6 following you exactly. I mean if -- if you 7 influence like the way a medical board says you 8 have to treat pain or you're going to be 9 disciplined, there's not a direct influence 10 again, but there's a very indirect influence 11 that you're going to have to do, you know, be 12 cognizant of, that that practice came from, you 13 know, lobbying efforts and things like that 14 before that person wrote that prescription. 15 Q. You'd want to know though whether 16 the doctor was influenced, right? 17 A. I mean -- 18 MR. BADALA: Objection. 19 BY MR. CHEFFO: 20 Q. Right? 21 MR. BADALA: Objection to form. 22 THE WITNESS: Well, I don't see how 23 you could say they weren't influenced if these 24 are, you know, the laws they're bound to 25 follow.</p>	<p style="text-align: right;">Page 216</p> <p>1 more time. 2 MR. BADALA: So, Mark, are you 3 willing to stipulate that your client can't 4 read documents when -- 5 MR. CHEFFO: No. They can read it, 6 but not -- not -- I first would like to ask 7 some basic questions about whether he's seen 8 it, heard it, refreshed his recollection. And 9 then we can figure out if he needs -- 10 MR. BADALA: Well -- 11 MR. CHEFFO: -- to read it. 12 MR. BADALA: -- he's allowed to look 13 at a document. He didn't spend five minutes. 14 We can go back. 15 MR. CHEFFO: I think it was pretty 16 close to that. 17 MR. BADALA: He can look at it. 18 It's a long -- it's a long e-mail. 19 MR. CHEFFO: He wrote it. 20 MR. BADALA: Okay? It's a chain. 21 MR. CHEFFO: He wrote it. 22 MR. BADALA: This was -- this was 23 back -- 24 MR. CHEFFO: Okay. Let's not argue. 25 MR. BADALA: -- in 2013.</p>
<p style="text-align: right;">Page 215</p> <p>1 BY MR. CHEFFO: 2 Q. Do you think doctors use their 3 independent judgment when they prescribe 4 medicines? 5 MR. BADALA: Objection to form. 6 THE WITNESS: I think they're 7 responsible for what they prescribe. 8 MR. CHEFFO: Okay. Can we mark 9 this, please. 10 (Deposition Exhibit 2 was marked for 11 identification.) 12 BY MR. CHEFFO: 13 Q. So you with me, Doctor? 14 A. Could -- could I just read this, 15 please. 16 Q. Okay. Just as a ground rule, I let 17 you read that. But we're never going to finish 18 this deposition if you read every single 19 document. 20 I need to ask you some preliminary 21 questions. So some it will be if you've seen 22 it. And others -- so I just want to give you 23 -- I'm -- I'm fine with you reading that. But 24 to take five minutes to read every document, 25 we're going to have to, you know, kind of get</p>	<p style="text-align: right;">Page 217</p> <p>1 MR. CHEFFO: It's fine. 2 MR. BADALA: I'm just saying. 3 BY MR. CHEFFO: 4 Q. Have you seen this -- 5 MR. BADALA: Put that on the record. 6 BY MR. CHEFFO: 7 Q. -- before today? 8 A. I don't remember. But I -- it's 9 from my account, so... 10 Q. You -- your name's on it, right? 11 You wrote -- 12 A. Right. I just -- I'm assuming I saw 13 it before, yeah. 14 Q. Do you also use your personal 15 account sometimes? 16 Do you have a personal e-mail 17 account? 18 A. I do have a personal e-mail account. 19 Q. Are those ever used for professional 20 purposes? 21 A. No. Not usually. 22 Q. Is there any reason why you would 23 ever use a personal e-mail address in -- in 24 your professional work? 25 A. Not that I can think of.</p>

<p style="text-align: right;">Page 218</p> <p>1 Q. So it would surprise you if</p> <p>2 documents were produced that came from your</p> <p>3 personal e-mail?</p> <p>4 A. I haven't really been consciously</p> <p>5 using it. But I -- I don't know. But I first</p> <p>6 would say I -- it's my practice not to use it</p> <p>7 for work-related information.</p> <p>8 Q. Okay. Let's go back to this</p> <p>9 document. It's Exhibit 2. It relates to</p> <p>10 initials OAR -- the initial OAR -- OARRS</p> <p>11 analysis you did back in 2013, right?</p> <p>12 A. Right.</p> <p>13 Q. And this is based on 2012 OARRS</p> <p>14 data, right?</p> <p>15 A. This was the deidentified data that</p> <p>16 we received from Board of Pharmacy as an</p> <p>17 aggregate electronic file.</p> <p>18 Q. And this e-mail correspondence is</p> <p>19 from Ed Fitzgerald and Matt Carroll, who were</p> <p>20 the count exec -- county executive and chief of</p> <p>21 staff, right?</p> <p>22 A. Right. At that time they were those</p> <p>23 positions.</p> <p>24 Q. And was it routine for you to be</p> <p>25 communicating with them about this type of</p>	<p style="text-align: right;">Page 220</p> <p>1 files, as I recall, on individuals who had an</p> <p>2 OARRS file. We had furnished them the names of</p> <p>3 our decedents, and I believe they sent files</p> <p>4 back to us with those names.</p> <p>5 I don't remember exactly on the --</p> <p>6 but that's my best recollection. But we did</p> <p>7 not know anything about prescribing.</p> <p>8 Q. Was it deidentified in the OARRS</p> <p>9 system or was just what you received</p> <p>10 deidentified, if you know?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 THE WITNESS: As I understood it, it</p> <p>13 was deidentified what was shared with us.</p> <p>14 Because we did not have access to the OARRS</p> <p>15 system.</p> <p>16 But I would have -- based on what I</p> <p>17 know of the OARRS system, that information</p> <p>18 would have been available if someone had access</p> <p>19 to it.</p> <p>20 BY MR. CHEFFO:</p> <p>21 Q. Okay. And you state that 64 percent</p> <p>22 of heroin overdose deaths had an OARRS record?</p> <p>23 A. Yes.</p> <p>24 Q. And in order to have an OARRS</p> <p>25 record, that means that there's a record</p>
<p style="text-align: right;">Page 219</p> <p>1 information?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 THE WITNESS: They would be my chain</p> <p>4 of command. So I would be communicating with</p> <p>5 them.</p> <p>6 BY MR. CHEFFO:</p> <p>7 Q. Did they ask you to put this</p> <p>8 together; do you know?</p> <p>9 A. I don't remember what prompted this</p> <p>10 e-mail. I had spoken, it says, at cabinet the</p> <p>11 day before. And our cabinet meetings would be</p> <p>12 most all of the department directors. So it</p> <p>13 may have been a very short time that I had to</p> <p>14 speak.</p> <p>15 I don't know if they specifically</p> <p>16 asked me to follow up or if I felt a desire to</p> <p>17 follow up based on kind of providing more</p> <p>18 information.</p> <p>19 Q. And it -- it was deidentified data,</p> <p>20 right?</p> <p>21 A. The information we received from</p> <p>22 OARRS was deidentified to some extent.</p> <p>23 Q. What does that mean?</p> <p>24 A. We had no information in that data,</p> <p>25 as I recall, about prescribers. And we got</p>	<p style="text-align: right;">Page 221</p> <p>1 that -- of a -- of a prescription for a control</p> <p>2 substance, right?</p> <p>3 It's not just limited to opioids.</p> <p>4 A. That's correct.</p> <p>5 Q. It could include opioids, but it's</p> <p>6 not necessarily one to one, right?</p> <p>7 A. Right. And if you read the</p> <p>8 parentheses, they had a legal prescription for</p> <p>9 a controlled substance. And then they go into</p> <p>10 the look-back period that we had, which was</p> <p>11 relatively short, before they died of a heroin</p> <p>12 overdose.</p> <p>13 Q. Right.</p> <p>14 And then you say that 48 percent had</p> <p>15 a prescription for benzodiazepines, right?</p> <p>16 A. Yes.</p> <p>17 Q. And 85 percent had a prescription</p> <p>18 for an opioid.</p> <p>19 A. That's correct, yes.</p> <p>20 Q. And -- and what we're talking about</p> <p>21 is -- is -- and I -- I probably garbled this,</p> <p>22 so I apologize.</p> <p>23 It's -- you state that 64 percent of</p> <p>24 heroin overdose deaths had an OARRS record,</p> <p>25 correct?</p>

<p style="text-align: right;">Page 222</p> <p>1 A. That's right.</p> <p>2 Q. And then you basically said that 48</p> <p>3 percent of those had a prescription for</p> <p>4 benzodiazepines, right?</p> <p>5 A. That's right.</p> <p>6 Q. And 85 had a prescription for an</p> <p>7 opioid, right?</p> <p>8 A. That's right.</p> <p>9 Q. So what this is saying is, of the 64</p> <p>10 percent of heroin overdoses with an OARRS</p> <p>11 record, 85 percent of the 64 percent had an</p> <p>12 opioid prescription in OARRS.</p> <p>13 A. That right.</p> <p>14 Q. So it's not 80 or 85 percent of the</p> <p>15 heroin users had a prescription for opioids;</p> <p>16 it's 85 of 64.</p> <p>17 A. Right. So more than half but not</p> <p>18 80 -- not the 85 percent.</p> <p>19 Q. Right.</p> <p>20 In fact, so I did some math, and you</p> <p>21 can check me on it.</p> <p>22 But so, of the 160 heroin overdoses</p> <p>23 in 2012, 87 of them were -- had an OARRS record</p> <p>24 for an opioid prescription, right?</p> <p>25 A. That's right.</p>	<p style="text-align: right;">Page 224</p> <p>1 think was another one.</p> <p>2 Q. Okay.</p> <p>3 A. But I mentioned it further down in</p> <p>4 the paragraph.</p> <p>5 Q. And -- and at -- and in -- in</p> <p>6 determining and looking at those 54 percent of</p> <p>7 individuals who had a prescription for a lawful</p> <p>8 opioid of some type, could you tell whether</p> <p>9 they were using heroin before their opioid</p> <p>10 prescription?</p> <p>11 A. Not on this data, no.</p> <p>12 Q. Did you make any judgments or</p> <p>13 determination about how far in the past they</p> <p>14 had had an opioid prescription prior to their</p> <p>15 heroin overdose?</p> <p>16 A. When we obtained the deidentified</p> <p>17 data, the OARRS system had a two-year</p> <p>18 look-back. And because we didn't get access to</p> <p>19 the data, we had short look-backs as short as</p> <p>20 six months and no more than 18 months.</p> <p>21 So I don't have a full picture of</p> <p>22 their prescription history. This is the opioid</p> <p>23 prescription history for the limited look-back</p> <p>24 that we had.</p> <p>25 Q. So you don't -- if it was for six</p>
<p style="text-align: right;">Page 223</p> <p>1 Q. And that's about 54 percent by my</p> <p>2 calculations?</p> <p>3 A. Sounds right.</p> <p>4 Q. And of the heroin overdoses in 2012,</p> <p>5 54 percent had a record in OARRS of having</p> <p>6 received some type of opioid prescription,</p> <p>7 right?</p> <p>8 A. That's what you just said before.</p> <p>9 Yes. Okay.</p> <p>10 Q. And what would that include in terms</p> <p>11 -- what would be encompassed within opioids?</p> <p>12 So would that include a prescription</p> <p>13 for fentanyl?</p> <p>14 A. Fentanyl would be one. Oxycodone,</p> <p>15 hydrocodone, oxymorphone, hydromorphone, the --</p> <p>16 Q. What about morphine?</p> <p>17 A. Pardon me?</p> <p>18 Q. Morphine?</p> <p>19 A. Morphine is an opioid, yes.</p> <p>20 Q. What about methadone?</p> <p>21 A. Methadone is an opioid, yeah. Sure.</p> <p>22 Q. Any -- anything else?</p> <p>23 A. I don't want to say that's the</p> <p>24 exhaustive list of opioids. They're certainly</p> <p>25 the ones that we saw most commonly. Tramadol I</p>	<p style="text-align: right;">Page 225</p> <p>1 months, if someone had been abusing heroin for</p> <p>2 five years and then got a lawful opioid</p> <p>3 prescription, that certainly -- you couldn't</p> <p>4 differentiate, could you?</p> <p>5 A. I couldn't tell how long they had</p> <p>6 been using heroin, no.</p> <p>7 Q. Could you tell whether they were</p> <p>8 ever addicted or treated for addiction prior to</p> <p>9 using heroin?</p> <p>10 A. Whether they had been in a treatment</p> <p>11 facility? That may have come from scene</p> <p>12 investigation data. I don't know specifically</p> <p>13 any one of these 160. But we may have been</p> <p>14 aware of some of that. And we tried to go back</p> <p>15 and look at that information, looking through</p> <p>16 our case files.</p> <p>17 One of the shortcomings of that</p> <p>18 approach I think is that, whoever is there to</p> <p>19 provide information at the time of death, you</p> <p>20 know, it's based on what they knew. When we</p> <p>21 convened the formal reviews of poison death</p> <p>22 reviews in 2013, that was why we wanted the</p> <p>23 medical director of the alcohol and drug</p> <p>24 addiction mental health services on the panel.</p> <p>25 Because she could access that data, and we</p>

<p style="text-align: right;">Page 226</p> <p>1 would have better information.</p> <p>2 We could get the public treatments,</p> <p>3 and then we could also still have my</p> <p>4 investigators glean information about</p> <p>5 private treatment facilities. So get a clearer</p> <p>6 picture.</p> <p>7 Q. Okay. And you couldn't tell, from</p> <p>8 any of these prescriptions that showed up on</p> <p>9 OARRS, whether they were written by a doctor</p> <p>10 who was engaging in unlawful conduct, could</p> <p>11 you?</p> <p>12 A. I could not, no.</p> <p>13 Q. You couldn't tell if it came from a</p> <p>14 pill mill?</p> <p>15 A. No, I don't.</p> <p>16 Q. You didn't go back and look, did</p> <p>17 you?</p> <p>18 A. I did not go further than to just</p> <p>19 analyze the data that you see here.</p> <p>20 Q. And you state that the opioid</p> <p>21 prescriptions in OARRS that you identified, 71</p> <p>22 percent -- and I think this is a quote -- of</p> <p>23 the narcotics were prescribed to the victim</p> <p>24 more than once.</p> <p>25 Do you see that?</p>	<p style="text-align: right;">Page 228</p> <p>1 Q. Yeah.</p> <p>2 Just -- I think I asked you whether</p> <p>3 they were different opioids.</p> <p>4 A. My anecdotal memory is yes, but I</p> <p>5 can't give you a percentage as I sit here</p> <p>6 today.</p> <p>7 Q. And did you make any determinations</p> <p>8 of doctor shopping based on this data?</p> <p>9 A. We couldn't.</p> <p>10 Q. And at this time, was a doctor</p> <p>11 required to check OARRS before he or she wrote</p> <p>12 a prescription?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 THE WITNESS: As I understand the</p> <p>15 OARRS system, the requirement for checking</p> <p>16 prior to prescribing a narcotic was started in</p> <p>17 April of 2015. So this would have preceded</p> <p>18 that.</p> <p>19 BY MR. CHEFFO:</p> <p>20 Q. But certainly a doctor could have if</p> <p>21 he or she wanted to; it just wasn't mandatory,</p> <p>22 right?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 THE WITNESS: Wasn't mandatory. I</p> <p>25 think, if they had access, they could have</p>
<p style="text-align: right;">Page 227</p> <p>1 A. Yes.</p> <p>2 Q. What does that mean?</p> <p>3 A. Let me just refresh myself on that.</p> <p>4 So when I get the prescription</p> <p>5 profile, in all there are 169 prescriptions for</p> <p>6 these individuals who have an OARRS file with</p> <p>7 the opiates. And then, of that, 71 percent of</p> <p>8 that 87, that 85 percent, had been prescribed</p> <p>9 an opiate more than one time.</p> <p>10 OARRS is just going to tell me did</p> <p>11 they ever get one. But the majority, almost</p> <p>12 three out of four, were getting multiple</p> <p>13 prescriptions for opioids, more than one.</p> <p>14 Q. Well, could that have been a refill?</p> <p>15 A. I don't remember the data to that</p> <p>16 degree.</p> <p>17 Q. Were -- were they different</p> <p>18 prescriptions for different opioids from</p> <p>19 different doctors?</p> <p>20 A. As it says in the next sentence: "I</p> <p>21 don't have the data on whether this involved</p> <p>22 different doctors or not." And, you know, I</p> <p>23 don't -- not able to comment on the doctors.</p> <p>24 There was a first part to your</p> <p>25 question I feel I'm missing though.</p>	<p style="text-align: right;">Page 229</p> <p>1 checked.</p> <p>2 BY MR. CHEFFO:</p> <p>3 Q. I mean there's no prohibition.</p> <p>4 Provided a doctor otherwise had -- had access,</p> <p>5 he or she could have checked the OARRS database</p> <p>6 prior to 2015.</p> <p>7 A. As long as they were prescribing to</p> <p>8 that patient, yes.</p> <p>9 Q. Right.</p> <p>10 That's what we're talking about is</p> <p>11 people who are prescribing, right?</p> <p>12 A. Right. Yes. I mean they can't do</p> <p>13 searches around --</p> <p>14 Q. Oh, sure. We're talking --</p> <p>15 A. -- other prescribers or things like</p> <p>16 that for the doctor shopping piece.</p> <p>17 Q. And you say: "This confirms that</p> <p>18 the majority of eventual heroin overdose</p> <p>19 victims are in the medical system being treated</p> <p>20 for pain anxiety. Whether the medical system</p> <p>21 created their addiction or these numbers</p> <p>22 reflect addicts trying to get whatever they</p> <p>23 could to treat their addiction is unclear."</p> <p>24 Do you see that?</p> <p>25 A. Let's see. On the -- I did see it</p>

<p style="text-align: right;">Page 230</p> <p>1 when I read before. And I don't want to take 2 up more of your time. Oh, here we are. Yes. 3 Q. And so you were saying it's 4 impossible to tell from OARRS whether the 5 decedent's abuse started with prescriptions or 6 before or after, right? 7 A. That's right. We could not use this 8 data to try to characterize the overdose -- the 9 heroin overdose population better than to say 10 they have had prescriptions for these drugs. 11 Whether they're interchangeably going in and 12 out of the medical system to obtain them or 13 they started with them and then became addicted 14 and transferred over to heroin, that we could 15 do with -- 16 Q. Well -- 17 A. -- this data. 18 Q. But also you couldn't -- it could be 19 something else that wouldn't necessarily be the 20 responsibility of -- of the defendants. 21 It could be that someone was using 22 heroin and then was abusing prescription 23 medicines, right? 24 MR. BADALA: Objection to form. 25 BY MR. CHEFFO:</p>	<p style="text-align: right;">Page 232</p> <p>1 A. Right. And then I go on to say 2 anecdotally and this is what we're trying to 3 get better data on. The addicts were created 4 with the legal pain medicine. 5 But you can't use this data, I 6 think, to say that -- what they're trying to do 7 as they obtain these prescriptions, whether 8 they're taking advantage of whatever they can 9 get their hands on or whether they're, you 10 know, being created by the medical system. 11 Q. Are you aware of any mandate from 12 the state medical board requiring the 13 prescription of opioids? 14 A. I am more aware of -- and again, I 15 -- as I don't treat these -- there were 16 guidelines that were put out that talked about 17 the treatment of pain and the undertreatment of 18 pain. 19 I didn't specifically, as I 20 remember, discuss opioids. So I -- I don't 21 prescribe medications, obviously. And I don't 22 know that I can characterize it any better than 23 that. 24 Q. And -- and of the -- the drug 25 dealers, street dealers, are -- are you -- is</p>
<p style="text-align: right;">Page 231</p> <p>1 Q. That's possible, wasn't it? 2 A. It's possible. And, you know, this 3 was where we needed to kind of wait for more 4 information to come out from those interviews 5 that were done with actively using heroin 6 addicts. We couldn't query these people how 7 did you get started on this. 8 So this was kind of our first stab 9 into the data to try to understand the 10 relationship. But I couldn't clarify, like I 11 say here, oh, all of these people who have a 12 prescription for opioid pain relievers are 13 taking them, getting addicted, and 14 transitioning to heroin. That doesn't come 15 from this. 16 Q. And in the second part of your 17 statement you're suggesting, I -- I believe -- 18 tell me if you disagree -- that some drug 19 abusers will abuse whatever's available to 20 them? 21 A. Where are you at, sir? I'm sorry. 22 Q. Where you say: "Whether the medical 23 system created their addiction or these numbers 24 reflect addicts trying to get whatever they 25 could to treat their addiction is unclear."</p>	<p style="text-align: right;">Page 233</p> <p>1 it your testimony that, because they are 2 opportunistic criminals who are taking 3 advantage of people in need, that they somehow 4 have no culpability to their conduct? 5 MR. BADALA: Objection to form. 6 THE WITNESS: No. I think I've 7 answered that before. You know, there are a 8 cast of unsavory characters here. 9 But I would say that that addicted 10 population is referable back to the defendants. 11 And then there are chains of people. Some of 12 them are very unsavory. You know, the street 13 drug dealers, the cartels, et cetera, who have 14 been prosecuted, and I think appropriately so. 15 BY MR. CHEFFO: 16 Q. Do you think they bear some 17 responsibility for -- if someone were to be a 18 street dealer and sell carfentanil to a opioid 19 naive teenager without any medical need, would 20 they have capability? 21 MR. BADALA: Objection to form. 22 THE WITNESS: I think they would be, 23 you know, appropriately entered into the 24 criminal system for their action. 25 BY MR. CHEFFO:</p>

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1 Q. Do they have culpability for the  
2 opioid crisis?  
3 MR. BADALA: Objection to form.  
4 THE WITNESS: They are a part of  
5 making the crisis worse. But I think that the  
6 crisis itself is referable back to the  
7 defendants, not to these individuals.  
8 Q. They make it worse how?  
9 A. By killing all these people with,  
10 you know, heroin and fentanyl and carfentanyl,  
11 illicit fentanyl. They're a part of that, you  
12 know, chain of events that ultimately is, you  
13 know, resulting in the deaths of, you know,  
14 thousands of people in this community.  
15 Q. And -- and -- and what -- what  
16 percentage of culpability do they have?  
17 MR. BADALA: Objection to form.  
18 THE WITNESS: I -- I can't answer  
19 with percentages. You know, they're a part of  
20 the process that has gone on. But ultimately I  
21 think that their existence is referable back to  
22 the actions of the defendants.  
23 BY MR. CHEFFO:  
24 Q. Do you think they should -- they  
25 should pay for drug treatment?

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1 MR. BADALA: Objection to form.  
2 THE WITNESS: Honestly, I'd love if  
3 anybody who, you know, stepped up to offer drug  
4 treatment would pay for it. Defendants, these  
5 folks.  
6 You know, it's a terrible crisis.  
7 And we've certainly gone through phases where  
8 we haven't had enough treatment or treatment's  
9 been very difficult to obtain for people  
10 because our system was overwhelmed.  
11 That my feeling is, you know, if  
12 anybody stepped up to pay for treatment, yeah,  
13 I -- I would welcome it.  
14 BY MR. CHEFFO:  
15 Q. Well, putting aside stepped up.  
16 But should -- should -- should the  
17 county seek to make the cartels and the drug  
18 dealers and the pill mills and the doctors  
19 contribute in any way toward the damages that  
20 they -- they say that they sustained?  
21 MR. BADALA: Objection to form.  
22 Asked and answered.  
23 THE WITNESS: I don't know, you  
24 know, how they would do that. But if there was  
25 some mechanism --

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1 BY MR. CHEFFO:  
2 Q. It's called a lawsuit.  
3 How about that?  
4 MR. BADALA: Objection to form.  
5 THE WITNESS: I don't know if you  
6 could find the cartel to file the lawsuit,  
7 but --  
8 BY MR. CHEFFO:  
9 Q. Well, if you could --  
10 A. I don't know those things.  
11 Q. -- would you support that?  
12 MR. BADALA: Objection to form.  
13 THE WITNESS: As I say, I would like  
14 to see funding for more treatment. Because  
15 that's something that was overwhelmed in our  
16 county.  
17 Where those dollars come from, I  
18 think the county should just take whatever they  
19 can get.  
20 BY MR. CHEFFO:  
21 Q. All right. Would you support a  
22 lawsuit against the doctors who potentially  
23 made millions of dollars or the pill mills who  
24 made lots of money or the cartels or drug  
25 dealers in order to pay for some of the costs

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1 for treatment?  
2 Would that be something that you  
3 think would be appropriate?  
4 MR. BADALA: Objection to form.  
5 Asked and answered.  
6 THE WITNESS: Again, you know,  
7 anybody who would, you know, fund this would be  
8 a positive development to me. I think those  
9 individuals, you know, are appropriately kind  
10 of put in the criminal system for, you know,  
11 running a pill mill, an illegal operation like  
12 that and I think making the actions of the  
13 defendants worse with their actions.  
14 MR. BADALA: Is this a good time for  
15 a five-minute break?  
16 MR. CHEFFO: Sure.  
17 THE VIDEOGRAPHER: We are going off  
18 the record.  
19 This is the end of Media Unit 3.  
20 The time is 2:13.  
21 (A short recess was taken.)  
22 THE VIDEOGRAPHER: We are going back  
23 on the record.  
24 This is the start of Media Unit No.  
25 4.

<p style="text-align: right;">Page 238</p> <p>1 The time is 2:30.</p> <p>2 You may proceed, Counsel.</p> <p>3 BY MR. CHEFFO:</p> <p>4 Q. Doctor, I think I asked you earlier</p> <p>5 if you were an expert on ARCOS, and I believe</p> <p>6 you told me that you were not; is that correct?</p> <p>7 A. No. We didn't have access to the</p> <p>8 data, and I don't know the data.</p> <p>9 Q. When you -- when you were deposed</p> <p>10 last week, I asked you if you had access to the</p> <p>11 data, and I think you told me you didn't think</p> <p>12 you did, right?</p> <p>13 A. No. I -- I said we did not. The</p> <p>14 county did not. I did not.</p> <p>15 Q. And it's something you would have</p> <p>16 like to have reviewed if you -- if you had</p> <p>17 access to it, right?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 THE WITNESS: I mean we just didn't</p> <p>20 have access to it. It could have been</p> <p>21 potentially informative. But we did not get</p> <p>22 access to the ARCOS data.</p> <p>23 BY MR. CHEFFO:</p> <p>24 Q. And in -- in the last week, did you</p> <p>25 learn that, in fact, the ARCOS data was</p>	<p style="text-align: right;">Page 240</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 THE WITNESS: I don't know.</p> <p>3 BY MR. CHEFFO:</p> <p>4 Q. Well, why would the county want it,</p> <p>5 potentially?</p> <p>6 MR. BADALA: Objection to form.</p> <p>7 MR. CHEFFO: Strike that. It was a</p> <p>8 bad question.</p> <p>9 BY MR. CHEFFO:</p> <p>10 Q. Why would the county want it, and --</p> <p>11 and for what potential uses could it -- it use</p> <p>12 the ARCOS data?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 THE WITNESS: You know, I don't</p> <p>15 really know that I know enough about the ARCOS</p> <p>16 data to say. As I understand it, it's about</p> <p>17 distribution of drugs into Cuyahoga County and</p> <p>18 what drugs are coming here. I know potentially</p> <p>19 it could be useful for developing public health</p> <p>20 strategies.</p> <p>21 But as I say, having never seen the</p> <p>22 data, I have a very rudimentary knowledge of</p> <p>23 it. And, you know, it's through the DEA. And</p> <p>24 we have a DEA office here for -- with -- as I</p> <p>25 understand, it has a diversion unit.</p>
<p style="text-align: right;">Page 239</p> <p>1 provided to the county and your lawyers months</p> <p>2 ago?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 THE WITNESS: I became aware that</p> <p>5 the data was furnished to lawyers. But it</p> <p>6 wasn't available to us at the county, is my</p> <p>7 understanding of that.</p> <p>8 BY MR. CHEFFO:</p> <p>9 Q. So you understood that the lawyers</p> <p>10 had it, but the county and law enforcement and</p> <p>11 the other county agencies didn't have any</p> <p>12 access to it, right?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 THE WITNESS: That's my</p> <p>15 understanding of that.</p> <p>16 BY MR. CHEFFO:</p> <p>17 Q. Does that seem right to you?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 THE WITNESS: That's the way they're</p> <p>20 going to use their data. I can't tell them how</p> <p>21 to use it otherwise.</p> <p>22 BY MR. CHEFFO:</p> <p>23 Q. But you think it would be well used</p> <p>24 if the county had access to it or law</p> <p>25 enforcement, right?</p>	<p style="text-align: right;">Page 241</p> <p>1 So yeah. Not -- not -- not having</p> <p>2 seen it, I don't know how it could be helpful.</p> <p>3 But if we knew how much drug was in the county,</p> <p>4 that may be potentially useful information.</p> <p>5 BY MR. CHEFFO:</p> <p>6 Q. Do you know what -- when I use the</p> <p>7 term "indication for prescription medicine," do</p> <p>8 you know what that means?</p> <p>9 A. Maybe I can tell you what I think</p> <p>10 you are saying. And the indication would be</p> <p>11 the reason that a prescription was being given.</p> <p>12 Q. The approved use, right?</p> <p>13 Is that -- would you agree with me</p> <p>14 or -- is that a -- is that a -- is that a</p> <p>15 definition we can -- we can agree on?</p> <p>16 A. I know there are, you know, some</p> <p>17 medications that have off-label uses. So the</p> <p>18 indication I think -- you know, I don't know</p> <p>19 that it would be something -- necessarily an</p> <p>20 approved use.</p> <p>21 Q. Okay. We'll -- we'll adopt your --</p> <p>22 your -- so your definition would be an</p> <p>23 indication means whatever it's prescribed for</p> <p>24 by a doctor; yes?</p> <p>25 A. The reason for the prescription.</p>

<p style="text-align: right;">Page 242</p> <p>1 Q. The reason for it. Okay.</p> <p>2 What are the typical indications for</p> <p>3 opioids?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 THE WITNESS: As I say, it's been a</p> <p>6 very long time since I've prescribed anything.</p> <p>7 As I remember, they were intended to treat</p> <p>8 pain.</p> <p>9 BY MR. CHEFFO:</p> <p>10 Q. What kind of pain?</p> <p>11 A. I'm not sure I understand your</p> <p>12 question.</p> <p>13 Q. Are you aware of different types of</p> <p>14 pain, or do you categorize them all under the</p> <p>15 same rubric?</p> <p>16 A. I -- pain.</p> <p>17 Q. Okay. I mean are you aware of</p> <p>18 whether there's any more -- more clarity or</p> <p>19 specificity with respect to the approved uses</p> <p>20 for opioids, or is it just for pain?</p> <p>21 A. My basic understanding is they're</p> <p>22 used to treat pain. Some of the opiates are</p> <p>23 used for diarrhea and things like that as well,</p> <p>24 like paregoric.</p> <p>25 But I'm not sure what -- I'm not</p>	<p style="text-align: right;">Page 244</p> <p>1 underprescribed or prescribed inconsistent with</p> <p>2 appropriate standard of care, would you?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 THE WITNESS: I don't know standards</p> <p>5 of care with that. I think there are instances</p> <p>6 of people who are prescribing opioids that are</p> <p>7 done in an illegal fashion that I would say I</p> <p>8 would offer a judgment that that wasn't</p> <p>9 appropriate prescribing.</p> <p>10 BY MR. CHEFFO:</p> <p>11 Q. What would -- how would you make</p> <p>12 that determination?</p> <p>13 A. I mean the pill mill scenario is</p> <p>14 what came to mind when you asked your question.</p> <p>15 You know, not establishing a patient doctor</p> <p>16 relationship, prescribing opioids at that</p> <p>17 point; and, you know, not really having a clear</p> <p>18 reason to be doing that.</p> <p>19 Q. Do you believe that some patients</p> <p>20 can benefit from opioid therapy if it's</p> <p>21 properly prescribed by their doctor and they're</p> <p>22 monitored?</p> <p>23 A. Yes.</p> <p>24 Q. And do you believe it's an</p> <p>25 appropriate therapy, to the extent a doctor</p>
<p style="text-align: right;">Page 243</p> <p>1 sure I understand your question as to what</p> <p>2 different types of pain.</p> <p>3 Q. Okay. And is it your understanding</p> <p>4 that they have been -- opioids have been</p> <p>5 approved by the FDA for the treatment of pain?</p> <p>6 MR. BADALA: Objection to form.</p> <p>7 THE WITNESS: I believe that's what</p> <p>8 their indication is, yes.</p> <p>9 BY MR. CHEFFO:</p> <p>10 Q. And it's lawful for doctors to</p> <p>11 prescribe opioids for treating pain?</p> <p>12 A. That's my understanding of that.</p> <p>13 Q. And it's your understanding that</p> <p>14 it's -- it's common for doctors treating</p> <p>15 patients in chronic pain to prescribe opioids,</p> <p>16 amongst other medicines, to try and help their</p> <p>17 patients?</p> <p>18 A. I don't treat chronic pain. I'm</p> <p>19 aware that that's something that opioids have</p> <p>20 been used for. I don't profess to really know</p> <p>21 decision making on that, you know, line of</p> <p>22 treatment. It's outside of the really scope of</p> <p>23 practice that I do.</p> <p>24 Q. So you wouldn't be the person to</p> <p>25 talk about whether somebody overprescribed or</p>	<p style="text-align: right;">Page 245</p> <p>1 determines it's -- it's a -- it's the right</p> <p>2 medicine, for someone who's suffering from</p> <p>3 cancer pain?</p> <p>4 A. Again, you know, I don't treat</p> <p>5 people with cancer pain or postoperative pain</p> <p>6 or chronic pain. So how appropriate those</p> <p>7 decisions are I really don't feel qualified to</p> <p>8 give you an answer on.</p> <p>9 Q. Do you -- are you -- are you</p> <p>10 qualified to make an assessment as to how a</p> <p>11 doctor should evaluate a patient before</p> <p>12 prescribing an opioid to his or her patient?</p> <p>13 A. I wouldn't say that that's, you</p> <p>14 know, something I practice in. And I probably</p> <p>15 would not feel comfortable making that</p> <p>16 assessment.</p> <p>17 Q. So whether somebody was -- strike</p> <p>18 that.</p> <p>19 You're not of the view that opioids</p> <p>20 should be removed from the market, are you?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: I mean we've used</p> <p>23 opioids for a long time for pain. And I think</p> <p>24 the -- you know, this is again just, you know,</p> <p>25 my rudimentary knowledge -- they have a place</p>

<p style="text-align: right;">Page 246</p> <p>1 in medicine. I don't know that I would be able 2 to expound at length about what that role is. 3 But I wouldn't say that, you know, 4 they're to be kind of thrown out with the 5 dishwater. Throw the baby out with the bath 6 water, if you would. 7 BY MR. CHEFFO: 8 Q. And -- and -- and you would be -- 9 you would not support any prohibition on 10 doctors prescribing patients who have a 11 legitimate need for opioids -- preventing those 12 doctors from doing so, would you? 13 MR. BADALA: Objection to form. 14 THE WITNESS: I mean a doctor 15 prescribing a legitimate medication 16 appropriately, I -- I don't see how I would 17 object to that. 18 BY MR. CHEFFO: 19 Q. Have you advocated, either 20 personally or professionally, for any 21 limitations on opioid prescriptions? 22 A. Not that I -- I -- and I mean our 23 data has been used in a lot of different ways 24 about prescribing. And I don't know the long 25 ranging impacts. My direct lobbying for those,</p>	<p style="text-align: right;">Page 248</p> <p>1 understanding of the -- the study and the -- 2 the takeaway from it. 3 A. What they were doing in the study 4 was looking at opioids, both narcotics and 5 opioid pain relievers, and trying to establish 6 some, you know, data with regard to their 7 interrelation. 8 And what they did with the heroin 9 users was asked them about, you know, whether 10 they had used or abused opioids for nonmedical 11 purposes, as I recall, within the last year. 12 Or they did a ten-year look-back as well. 13 And adding those two together, they 14 saw that -- I think it was 79.5 percent of the 15 people who were using heroin had a previous 16 history of using opioid pain relievers, and 17 very few of the people who were using the 18 opioid pain relievers or abusing them had 19 initiated with heroin, is the takeaways we took 20 from that. 21 Q. Okay. So of the heroin users, they 22 asked them whether they had used an opioid in 23 the last five years? 24 A. I thought the look-back window they 25 used was ten years.</p>
<p style="text-align: right;">Page 247</p> <p>1 I don't remember any instances of that. 2 Q. We'll just have some examples. 3 Have you said a -- you -- a doctor 4 shouldn't be able to prescribe for more than 5 seven days an initial prescription? 6 A. That's a rule that our governor 7 instituted here. And through our Opiate Task 8 Forces and things like that data our is used. 9 But I'm not directly influencing that decision. 10 So I would have to say I don't know 11 to what extent, you know, data that we used has 12 influenced any of that. But I have not 13 personally done so. 14 Q. Correct me if I'm wrong. I'm sure 15 you will, which is what you should. But I -- I 16 think you had referenced ANAMSA -- 17 A. SAMHSA? 18 Q. -- SAMHSA study last time, maybe 19 earlier today. 20 A. Both times, yes. 21 Q. Okay. And -- and you're familiar 22 with that study? 23 A. In general, yeah. 24 Q. Okay. And what -- tell me what -- 25 you know, give me a summary of your</p>	<p style="text-align: right;">Page 249</p> <p>1 Q. Ten years? 2 A. And they said, beyond that, they 3 didn't want to rely on recall at that point. 4 Q. And this was for -- this was for 5 a -- a nonmedical purpose? 6 A. The opioid pain relievers, yes. 7 Q. So what does that mean? 8 A. That it wasn't being used for proper 9 use for a therapeutic intervention. I don't 10 know how they defined the term in their paper 11 though. 12 Q. And so -- 13 A. That's kind of what I took from it. 14 Q. Right. 15 So it was -- there -- they were 16 nonmedical pain prescriptions, so they were not 17 prescribed -- they were not being used in 18 accordance with a proper prescription from a 19 doctor who prescribed it for pain, right? 20 Is that your takeaway? 21 A. They may have obtained them from a 22 doctor for pain. But if it was a doctor 23 shopping scenario or something like that, then 24 they were using it in a nonmedical way. 25 Q. Okay. So let's -- let's just make</p>

<p style="text-align: right;">Page 250</p> <p>1 sure --</p> <p>2 A. I don't know that they specified,</p> <p>3 you know, more beyond how they defined the</p> <p>4 term, as I -- I don't remember that they --</p> <p>5 Q. It was people who were using opioids</p> <p>6 or had used opioids in the -- in ten years</p> <p>7 before in a way that wasn't legitimately</p> <p>8 appropriate based on a doctor's prescription or</p> <p>9 recommendation.</p> <p>10 Is that your takeaway?</p> <p>11 A. They were using them in a</p> <p>12 nonmedical, nontherapeutic way.</p> <p>13 Q. So it could have --</p> <p>14 A. That was my takeaway.</p> <p>15 Q. -- been someone who bought a handful</p> <p>16 of pills off the street, right, and used them</p> <p>17 in the last ten years?</p> <p>18 A. That would have been my</p> <p>19 understanding of, you know, a group -- they</p> <p>20 group that they would have included in their</p> <p>21 nonmedical therapeutic use.</p> <p>22 Q. Could have been a -- a -- a pill</p> <p>23 mill, right?</p> <p>24 A. Right. Sure.</p> <p>25 Q. It could have been something that</p>	<p style="text-align: right;">Page 252</p> <p>1 medication -- it's a nontherapeutic use of</p> <p>2 their medication.</p> <p>3 Your question's a little confusing</p> <p>4 to me though.</p> <p>5 Q. Right.</p> <p>6 They -- these were not people who</p> <p>7 were prescribed pain medicines by a doctor,</p> <p>8 used it as directed and as prescribed, and then</p> <p>9 went on to use heroin, right?</p> <p>10 That was not this population or this</p> <p>11 study.</p> <p>12 A. As I understand it, that's not this</p> <p>13 population.</p> <p>14 Q. And of that 80 percent of the heroin</p> <p>15 users who had used nonmedical prescription pain</p> <p>16 relievers, about 3.6 percent of those</p> <p>17 progressed to heroin use, right?</p> <p>18 A. I thought the heroin users</p> <p>19 progressed to -- at -- at that low level, to</p> <p>20 the nontherapeutic use of medications, the</p> <p>21 opioid pain relievers. It was kind of a -- not</p> <p>22 a initiating drug for the --</p> <p>23 MR. CHEFFO: Well, I want to -- when</p> <p>24 I think -- I'm going to show you the -- the</p> <p>25 article again. I -- hopefully -- and I think</p>
<p style="text-align: right;">Page 251</p> <p>1 they got from a drug cartel and -- from a</p> <p>2 street drug, right?</p> <p>3 A. I am not aware of the drug cartels</p> <p>4 selling the pills that much. But I don't know,</p> <p>5 you know, that I could speak more to the</p> <p>6 source.</p> <p>7 May have been people -- you know,</p> <p>8 other examples I can think of that were</p> <p>9 discussed in different papers would be like</p> <p>10 taking medications from a medicine cabinet that</p> <p>11 were intended for somebody else but diverted to</p> <p>12 somebody. And that would be an abuse,</p> <p>13 obviously, that wasn't intended for them.</p> <p>14 Or, you know, not using your</p> <p>15 medications appropriately as they were</p> <p>16 prescribed could also be in that group too.</p> <p>17 I don't remember how they defined</p> <p>18 it, to be honest with you.</p> <p>19 Q. Would the -- is it fair to say one</p> <p>20 of the key takeaways, these weren't people that</p> <p>21 went to their doctors for pain, were prescribed</p> <p>22 appropriately a pain medication, and then 80</p> <p>23 percent of the people went on to heroin, right?</p> <p>24 That's not what the study showed.</p> <p>25 A. They're not using their</p>	<p style="text-align: right;">Page 253</p> <p>1 -- you need to -- read the entire thing, but I</p> <p>2 want you to -- to be clear on this.</p> <p>3 Can we just mark this. Because</p> <p>4 that's not my understanding, but I could be</p> <p>5 wrong.</p> <p>6 (Deposition Exhibit 3 was marked for</p> <p>7 identification.)</p> <p>8 MR. BADALA: And just for the</p> <p>9 record, you're allowed to read the document if</p> <p>10 you'd like. You don't have to listen to his</p> <p>11 instruction.</p> <p>12 MR. CHEFFO: I don't think I</p> <p>13 instructed him to do anything.</p> <p>14 BY MR. CHEFFO:</p> <p>15 Q. I think in the last -- and I'm</p> <p>16 looking at the abstract, Doc. I mean, again,</p> <p>17 you can look at -- but I -- I'd -- I'd ask you</p> <p>18 to just look at the abstract first on the front</p> <p>19 page. And then, if you need to look at more,</p> <p>20 you can.</p> <p>21 A. Not a good way to read medical</p> <p>22 literature. But I -- I see what you're saying</p> <p>23 here.</p> <p>24 Q. I -- I understand. But --</p> <p>25 A. I just want to go into --</p>

<p style="text-align: right;">Page 254</p> <p>1 Q. -- I -- I -- it's a very specific 2 question. But again, you -- you -- 3 A. I -- I don't want to take up your 4 time. I'll -- I'll try to do it with the 5 understanding I can -- 6 Q. And again, I'm not going to stop 7 you, Doctor. I really want -- but I -- I mean 8 I -- I think -- look at -- look at the -- the 9 second-to-last sentence in the abstract. 10 A. Okay. 11 Q. It starts with "Only 3.6 percent." 12 Do you see that? 13 A. Right. 14 Q. So does that refresh your 15 recollection on this argue -- on this article 16 that only 3.6 percent of nonmedical use pain 17 relief initiates had initiated heroin use 18 within the five-year period following their use 19 of the nonmedical pain reliever use? 20 MR. BADALA: Objection to form. I 21 think you read that incorrectly. 22 THE WITNESS: I'm sorry. I was 23 looking back to the data part of it, which is 24 on Page 14. 25 Right. It says here only 3.6</p>	<p style="text-align: right;">Page 256</p> <p>1 in -- in the prior ten years, right? 2 A. That's my understanding of the 3 paper, yes. 4 Q. The paper also says that only 3.6 5 percent of the people who actually used 6 nonmedical opioid or pain relievers went on to 7 use heroin within five years. 8 Is that what that says? 9 A. Yes. 10 Q. And that was a significant finding 11 both to you and people in your community, 12 right? 13 MR. BADALA: Objection to form. 14 THE WITNESS: Which finding are you 15 talking about, sir? 16 BY MR. CHEFFO: 17 Q. Those two findings, the -- the 80 18 percent and the 3.6 percent finding. 19 A. I certainly, you know, quoted this 20 paper and the research paper I wrote and 21 thought it was a well done study. 22 Q. And it also illustrated that a very 23 small percentage of people who actually used 24 even improperly obtained opioids actually went 25 on to use heroin, right?</p>
<p style="text-align: right;">Page 255</p> <p>1 percent of nonmedical pain reliever initiates 2 had initiated heroin use within five-year 3 period following their first nonmedical pain -- 4 pain reliever use. 5 BY MR. CHEFFO: 6 Q. Right. 7 So what does that mean? 8 MR. BADALA: Objection to form. 9 THE WITNESS: That of the people who 10 were initiates with nonmedical pain reliever 11 use, 3.6 of them had initiated heroin use in 12 five years following their first time using the 13 pain relievers in a nonmedical way. 14 Think I confused this with another 15 paper where the number of people who were using 16 prescription pain medication had a very low 17 incidence of having transitioned over from 18 heroin. So sorry I misinterpreted that. 19 BY MR. CHEFFO: 20 Q. No. That's okay. That's why I 21 showed you. 22 So -- so just tell me then -- so we 23 had a situation where heroin users were asked 24 about their use of nonmedical opioid drugs, and 25 approximately 80 percent said they had done so</p>	<p style="text-align: right;">Page 257</p> <p>1 A. This is the 3 percent that they talk 2 about here, 3 and a half percent. 3 Q. You -- it's a small percentage, 4 wouldn't you agree? 5 A. But a very large population who are 6 doing that. But a small percentage of them go 7 on to heroin use, as they mention. 8 Q. Right. 9 So -- 10 A. And that's really what forms the 11 basis of our population here. 12 Q. So 96.5 percent don't, according to 13 that study, right? 14 A. According to that study. 15 Q. And how do we differentiate the 3.6 16 in that study with the 96.4 percent when we 17 look at the population of Cuyahoga? 18 A. I don't know how you would -- 19 (Telephone interruption.) 20 (Discussion held off the 21 stenographic record.) 22 THE VIDEOGRAPHER: We are going off 23 the record. 24 The time is 2:54. 25 (A short recess was taken.)</p>

<p style="text-align: right;">Page 258</p> <p>1 THE VIDEOGRAPHER: We going back on 2 the record. 3 The time is 2:56. 4 You may proceed, Counsel. 5 MR. CHEFFO: Thank you. 6 BY MR. CHEFFO: 7 Q. Just before we finish with this 8 document, I just want to ask you just a -- a 9 question. Then we'll tie it in, Doctor. 10 So is -- is it your view that some 11 percentage of the people who use heroin in 12 Cuyahoga County today began using 13 nonprescription pain relievers, including 14 opioids, prior to their use of -- of heroin? 15 A. Yes. I would say that's true. 16 Q. And based on this article, would you 17 characterize that at approximately 3.6 percent? 18 A. I don't know that we've, you know, 19 looked at that. As I understand, you know, the 20 number of people who are -- if you're asking me 21 who use the prescription opioids in a 22 nonmedical way progressing to heroin abuse -- 23 Q. Uh-huh. 24 A. -- this is, you know, what they say, 25 a nationally representative study.</p>	<p style="text-align: right;">Page 260</p> <p>1 of the people who used nonmedical pain 2 relievers never, within the last five years, 3 went on to -- to use heroin, right? 4 A. That's their finding, yeah. And 5 then, when they look at the heroin initiates, 6 that's the ones who they point to the 80 7 percent who did have a nonmedical pain reliever 8 use. 9 Q. Right. 10 It was 80 percent who used 11 nonmedical within the last ten years, right? 12 A. That's my understanding. As I say, 13 I don't want to keep taking up time because I 14 know -- but -- the proportion of M -- N -- MPR 15 initiates who progressed to heroin initiation 16 expressed as a percentage of a hundred percent 17 has remained fairly steady. 18 And that's the numbers. This is -- 19 I'm reading in the middle of page 14. .71, 71 20 percent, 87 percent, 86 percent. And I think 21 that's where the number comes 79.5 percent. 22 Q. And -- and in that study, does it 23 articulate what percentage of people who were 24 prescribed lawful or appropriate opioid therapy 25 went on to use heroin?</p>
<p style="text-align: right;">Page 259</p> <p>1 I don't know the data specifically 2 in Cuyahoga County to say what percentage would 3 advance to that. I don't know. 4 Q. Well, you -- have you -- have you 5 done anything to either validate or -- or 6 challenge it? 7 A. I really don't have the capacity 8 with our folks actually to go back to do this 9 kind of a study. 10 Q. My question is have you? 11 A. No. I -- because I don't know how I 12 would do that, I guess is what I'm trying to 13 say. 14 Q. Are -- are you aware of any reason 15 as to why this information would not apply to 16 Cuyahoga County? 17 A. It's a national sample. And 18 Cuyahoga County, in terms of the drug epidemic, 19 has higher prescribing rates than other parts 20 of the county -- part -- pardon me -- other 21 parts of the country. 22 So I can't say for sure is it 23 applicable, is it not applicable. I don't 24 know. 25 Q. And this also says that 96.4 percent</p>	<p style="text-align: right;">Page 261</p> <p>1 A. That's not what I think this study 2 is addressing. 3 Q. Are you aware of a study that looks 4 at that question. 5 Well, let me ask you this: Are you 6 aware of any data with respect to Cuyahoga 7 County? 8 MR. BADALA: Objection to form. 9 THE WITNESS: I think, and 10 understand your question, am I aware of any 11 data of people who have a lawful prescription 12 for opioids who went on to develop a heroin 13 addiction? 14 BY MR. CHEFFO: 15 Q. Yes. Within a -- within some period 16 of time. 17 A. I'm not aware of that data. 18 Q. Have you ever tried to look at any 19 type of correlation or relationship or 20 percentage of people who were what I'll call 21 lawfully or appropriately prescribed an opioid 22 medicine who later went on to became heroin or 23 fentanyl addicts? 24 A. We didn't -- I, again, you know, 25 don't have access to all of that prescribing</p>

<p style="text-align: right;">Page 262</p> <p>1 data myself. So I don't know.  2 The other caveat I might say, too,  3 is that, you know, of those people potentially  4 who were kind of stealing out of grandma's  5 medicine cabinet, they could go on to develop a  6 prescription -- or pardon me -- go on to  7 develop an addiction to those substances based  8 on, you know, somebody who lawfully did have  9 that prescription. So --  10 Q. Okay.  11 A. -- little hard to capture all the  12 data --  13 Q. Well --  14 A. -- but --  15 Q. Okay. I'll be even more precise. I  16 thought you understand what I was talking  17 about.  18 I was trying to differentiate what  19 this study talks about, right, which is people  20 who are using it for nonmedical purposes,  21 right?  22 And I was trying to ask you someone  23 individually who was prescribed an opioid for a  24 legitimate purpose, and he or she took that  25 medicine --</p>	<p style="text-align: right;">Page 264</p> <p>1 How to identify, you know, the  2 illicit users of drugs, I don't know that we  3 could do that with certainty nationally or in  4 Cuyahoga County.  5 And then, you know, as we talked  6 about, you know, those people who kind of take  7 a -- or you're not asking me that about, you  8 know, people who kind of access legally  9 prescribed, appropriately used medications with  10 their leftovers.  11 Q. Yeah.  12 A. That's not a population we're  13 discussing.  14 So to -- to answer your question,  15 I -- I don't know that I could figure out how  16 to get that estimate.  17 Q. What would be the variables you --  18 you'd want to know if you had -- you know,  19 if -- if you had the resources to answer that  20 question and you have the inclination to answer  21 it?  22 A. The most obvious one -- and I think  23 it's the one that, you know, would be the  24 easiest to obtain, is who are all these people  25 who've received opioid pain relievers.</p>
<p style="text-align: right;">Page 263</p> <p>1 A. Okay.  2 Q. -- as prescribed by a doctor, if you  3 have looked at or are aware of any data in  4 Cuyahoga County that would tell us what  5 percentage of those people went on to become  6 abusers of heroin or fentanyl.  7 MR. BADALA: Objection to form.  8 THE WITNESS: I am not aware of the  9 data --  10 BY MR. CHEFFO:  11 Q. Are you aware of --  12 A. -- that it exists.  13 Q. Are you aware of it nationally?  14 A. I don't know.  15 Q. How would you -- how would you  16 determine the answer to that question?  17 A. What percentage of people who use  18 their drug appropriately --  19 Q. Yes, sir.  20 A. -- go on to develop an addiction to  21 heroin.  22 A lot of moving parts on that  23 question. I don't -- I don't know that I could  24 say. I mean we could probably go back and  25 identify who got the prescriptions.</p>	<p style="text-align: right;">Page 265</p> <p>1 Q. Can I stop you there.  2 So that -- that would -- isn't that  3 -- couldn't you search OARRS to at least start  4 there?  5 A. I can't search OARRS like that. I  6 don't know that's it searchable --  7 Q. Okay.  8 A. -- for that.  9 Q. So first is you'd want to know who  10 received the -- the prescription opioid pain  11 relievers for a medically appropriate purpose,  12 right?  13 A. That's what we're looking for.  14 Would OARRS capture everything that was  15 medically appropriate. It may do that and  16 capture some additional things too. The, you  17 know, medically inappropriate prescribers.  18 And, you know, when I remember  19 talking to the prosecutor about pill mills, he  20 said, yeah, some people who go in there have a  21 very legitimate reason to; be there and are  22 getting, you know, a prescription for that.  23 So even I think going back to  24 prescriber-level data might make that a hard  25 thing to say was this legitimate, even with the</p>

<p style="text-align: right;">Page 266</p> <p>1 person who is subsequently arrested and, you 2 know, like we say, that that person was 3 running, you know, an illegal pill mill 4 operation. There may be legitimate people in 5 that data set who, you know, are kind of lumped 6 with the bad practitioner. So whether they go 7 on and develop addiction, I don't know. 8 And as I say, you know, the end 9 result, these, you know, folks who are addicted 10 to heroin, there are models and, you know, 11 estimates how many people in a community would 12 be, you know, addicted or abusing things. 13 I don't know how they were generated 14 exactly. So I can't personally kind of go back 15 and tell you what, you know, is the number of 16 addicted people here or how to get a reasonable 17 estimate of that and. 18 Not knowing those individuals, I 19 don't think you could go back and 20 cross-reference OARRS easily on our state 21 level. Or it would become even more 22 challenging I think on a national level, just 23 given the difference in prescription drug 24 monitoring programs and how efficacious they 25 were.</p>	<p style="text-align: right;">Page 268</p> <p>1 individual case, right? 2 MR. BADALA: Objection to form. 3 THE WITNESS: I don't know think I 4 could do that. Whether there's expertise like 5 that, that I don't know. I cannot do it 6 myself. 7 BY MR. CHEFFO: 8 Q. If it was out there, it'd be helpful 9 to you in your practice in making public health 10 policy, wouldn't it? 11 MR. BADALA: Objection to form. 12 THE WITNESS: Which -- it would be 13 helpful to know -- 14 BY MR. CHEFFO: 15 Q. If you -- 16 A. -- what percentage of people would 17 go from prescription opioids to the addicted 18 population. 19 Q. Right. 20 A. It would be, you know, a piece of 21 information that I -- I think would be, you 22 know, helpful to know I think for our purpose 23 in terms of the opioid crisis kind of -- we had 24 to work backwards from when we identified the 25 crisis, which was the heroin crisis, and then</p>
<p style="text-align: right;">Page 267</p> <p>1 And, you know, our OARRS data 2 initially included the pharmacies prescribing 3 narcotics. But it did not include people who 4 were dispensing narcotic, samples they had, 5 prescribers from their office, until years 6 after OARRS was started. 7 So I don't mean to give a 8 wishy-washy answer. I don't usually like them. 9 But there's a lot of moving parts to that. And 10 I -- I -- I wouldn't feel that would be a very 11 easy task to do, if it's even possible. But 12 not by me, I guess. 13 Q. So to summarize what I think you're 14 saying is that there -- I think you said 15 there's a lot of moving parts. 16 Is that fair? 17 A. Yeah. Direct quote. 18 Q. And it is something that you can't 19 kind of draw broad conclusions from 20 population-type statistics or data in order to 21 determine whether people were -- ultimately 22 became addicted to heroin or fentanyl or other 23 opioids based on initial prescriptions of 24 lawful opioids without knowing a lot of the 25 different underlying specifics of that</p>	<p style="text-align: right;">Page 269</p> <p>1 try to get to the opioid pain reliever piece of 2 that. And that's where this study was more 3 helpful to me. 4 But, you know, I firmly believed 5 that all information has some value if it's 6 true. And that is, you know, information that 7 stays valuable. As I say, I can't do it. It's 8 kind of like, if a tree falls on my car, I 9 can't estimate how much damage, but somebody's 10 going to give me money for it. How they do 11 that, I don't know though. 12 MR. CHEFFO: Okay. Mark this, 13 please. 14 (Deposition Exhibit 4 was marked for 15 identification.) 16 THE WITNESS: I remember the paper. 17 So I'm just going to read the message. 18 BY MR. CHEFFO: 19 Q. I didn't say anything. It's a 20 relatively short e-mail. So I'm happy for you 21 to read it so I can ask you questions about it. 22 A. Let me just read his results. 23 Okay. Ready. 24 Q. Thanks, Doctor. 25 So you wrote this to who?</p>

<p style="text-align: right;">Page 270</p> <p>1 A. The recipients of the message are</p> <p>2 Vince Caraffi, who is the injury prevention</p> <p>3 program coordinator at the Cuyahoga County</p> <p>4 Board of Health. Jenna Suholdonic is the</p> <p>5 person at the United States Attorney's Office</p> <p>6 who coordinates a lot of the information that</p> <p>7 gets distributed, the minutes and things like</p> <p>8 that. And Hugh Shannon is my in-house</p> <p>9 administrator. And he's been another person</p> <p>10 I've worked with very closely with our data</p> <p>11 generation.</p> <p>12 Q. And you -- you say the minutes.</p> <p>13 Is this in connection with a</p> <p>14 committee?</p> <p>15 A. I was sending this to Vince Caraffi</p> <p>16 in association with the Cuyahoga County Board</p> <p>17 of Health task force. He would be my point of</p> <p>18 dissemination there. And I sent it to Jenna</p> <p>19 Suholdonic -- I boot her name periodically.</p> <p>20 I'll just say Jenna.</p> <p>21 I sent it to her because she does</p> <p>22 the distribution list for the U.S. Attorney's</p> <p>23 task force.</p> <p>24 Q. Okay. And you expected them to pass</p> <p>25 it on to the other participants in the task</p>	<p style="text-align: right;">Page 272</p> <p>1 our first study I have seen that provides data</p> <p>2 to back up that belief."</p> <p>3 Q. So you -- you thought this was</p> <p>4 accurate when you sent it, I take it?</p> <p>5 A. Yes.</p> <p>6 Q. And you still believe it's accurate,</p> <p>7 right?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And it says: "What the authors are</p> <p>10 saying is that there's a large segment of the</p> <p>11 drug-addicted population who are not" -- and</p> <p>12 that's all caps, right?</p> <p>13 A. Yes.</p> <p>14 Q. -- "getting addicted as a result of</p> <p>15 the overprescribing of pain medications."</p> <p>16 What did you mean by that?</p> <p>17 A. That they --</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 THE WITNESS: Oh, pardon me.</p> <p>20 And I -- I guess I would qualify</p> <p>21 this with the overprescribing pain medication</p> <p>22 to them.</p> <p>23 What Cicero, et al., are saying in</p> <p>24 this paper is that they've noticed a transition</p> <p>25 in opioid initiators starting with heroin</p>
<p style="text-align: right;">Page 271</p> <p>1 force?</p> <p>2 A. Right. Yeah. They were going to be</p> <p>3 points of distribution for me.</p> <p>4 Q. And this is dated October 9th, 2017,</p> <p>5 right?</p> <p>6 A. Right. That's correct.</p> <p>7 Q. Could you read just your note for</p> <p>8 the record.</p> <p>9 A. Sure.</p> <p>10 "Hi all. Would you please forward</p> <p>11 this citation to your distribution lists. I</p> <p>12 just became aware of it, and it's a critically</p> <p>13 important piece of information. What the</p> <p>14 authors are saying is that" a large segment of</p> <p>15 the drug-addicted population is -- I'm sorry --</p> <p>16 "is that there is a large segment of the</p> <p>17 drug-addicted population who are not getting</p> <p>18 addicted as a result of overprescribing of pain</p> <p>19 medications. This is not to say that the</p> <p>20 prescribing guidelines are without merit, but</p> <p>21 it is to say that, if they are our sole or</p> <p>22 major focus in preventing emergence of new</p> <p>23 addicts, then we are going to be missing a</p> <p>24 significance emerging trend. I believe we</p> <p>25 suspected that this was the case, but this is</p>	<p style="text-align: right;">Page 273</p> <p>1 rising from 2005 to 2015.</p> <p>2 So there's still the majority who</p> <p>3 are being introduced to opioid addiction</p> <p>4 through oxycodone and hydrocodone, but there</p> <p>5 are drops in those. And what I would say is</p> <p>6 that these folk aren't receiving the opioid</p> <p>7 pain medication. But this is an entirely</p> <p>8 unexpected, given that we're prescribing fewer</p> <p>9 opioid pain medications in Ohio.</p> <p>10 And what I stressed to the folks</p> <p>11 when I eventually spoke to them is that, you</p> <p>12 know, when we look back at these previous, you</p> <p>13 know, heroin epidemics that we've had, they</p> <p>14 didn't start with opioid pain relievers.</p> <p>15 So what we're seeing potentially is</p> <p>16 a reversion to a model that's more traditional</p> <p>17 in that we have an opioid-addicted population,</p> <p>18 again who are, you know, related to the</p> <p>19 overprescribing of medication, but their</p> <p>20 initiates, their contacts who subsequently</p> <p>21 initiate are bypassing that root of having</p> <p>22 opioid pain relievers prescribed to them.</p> <p>23 And the public health significance</p> <p>24 of that is that, especially at this time</p> <p>25 around, the CDC's guidelines being promulgated,</p>

<p style="text-align: right;">Page 274</p> <p>1 what I wanted to say is, you know, it's not the 2 whole story anymore if we're going to 3 intervention efforts with, you know, trying to 4 reduce our fentanyl deaths or our heroin 5 deaths. 6 Because overprescribing still has 7 merit. It's still important because it is a 8 big initiator. But we have to start thinking 9 about interdiction just of illicit substances 10 as well. Because that's potentially what some 11 of these folks are getting started with. 12 BY MR. CHEFFO: 13 Q. So Cicero said, from 2005 to 2015, 14 there was a significant increase in people who 15 started using heroin who never used opioids, 16 right? 17 A. Right. The initiates of heroin. 18 Q. And heroin is not marketed or sold 19 by any drug company, is it? 20 A. I don't know the overseas. There 21 are some countries like England where heroin is 22 legal. 23 Q. United States. 24 A. I don't know -- 25 Q. It's not in the --</p>	<p style="text-align: right;">Page 276</p> <p>1 to go down and find heroin." 2 Q. Really? 3 How do you know that? 4 A. Not my experience talking to people 5 in recovery as to how they get started. In 6 fact, I've never heard anybody say that. 7 Q. Are you an expert in addiction or -- 8 or heroin usage? 9 MR. BADALA: Objection to form. 10 THE WITNESS: No. 11 BY MR. CHEFFO: 12 Q. Okay. So -- 13 A. I would say that would be a very 14 unusual story, based on my experience talking 15 to people -- 16 Q. You've not -- 17 A. -- who have had this issue. 18 Q. Right. 19 You -- you've not published this 20 or -- or -- or hold yourself out as an expert 21 on addiction, do you? 22 A. I know things about addiction. I 23 wouldn't say that, you know, I would hold 24 myself out as an expert. 25 Q. Right.</p>
<p style="text-align: right;">Page 275</p> <p>1 A. In the -- 2 Q. -- United States, is it? 3 A. -- United States, no. 4 No. We're not in England. 5 Q. Okay. 6 A. No. 7 Q. And it's not distributed by anybody, 8 right, lawfully? 9 A. It's not lawfully distributed. It's 10 -- 11 Q. Right. 12 A. -- distributed by plenty of people, 13 unfortunately. 14 Q. Are any of them defendants in this 15 lawsuit? 16 A. Distributors of heroin, no. 17 Q. And -- and with respect to all of 18 those people that Cicero identified that never 19 used opioids but started on heroin, do you 20 attribute the cause of -- of those initiations 21 of heroin to the conduct of the defendants? 22 A. At least in large part, yes. 23 Q. Okay. Why? 24 A. Because the population, they're not 25 people who wake up one day and say, "I'm going</p>	<p style="text-align: right;">Page 277</p> <p>1 So do the people who actually abuse 2 heroin, do they have any responsibility? 3 A. Again, you know, I think that they 4 have responsibilities for their behavior. 5 Addiction is, you know, a very hard thing to 6 treat, has high relapse rates and, you know, 7 those things. 8 But the climate that creates the 9 addict I think is again referable back to the 10 defendants. And while I don't necessarily, you 11 know, like the behaviors of the addicts -- I 12 don't feel like, you know, these are people 13 who, you know, promote good behavior in a lot 14 of good communities because of things like 15 property crime that they might do to support 16 their behaviors, I -- I think a lot of the 17 issue with addiction does refer back to the 18 defendants. 19 Q. So -- so let's assume someone is 20 addicted on heroin, and they go out and break 21 into someone's car and steal something. 22 Is that the defendant's 23 responsibility too? 24 MR. BADALA: Objection to form. 25 THE WITNESS: In an indirect way, I</p>

<p style="text-align: right;">Page 278</p> <p>1 would say that you've created an addicted 2 population. They're, you know, conducting 3 illegal activities to support an addiction. 4 And, you know, I can't talk to percentages 5 again, like we mentioned before. But, you 6 know, that individual has some referral back to 7 the defendants. 8 BY MR. CHEFFO: 9 Q. So -- and let's -- let's keep going. 10 So they are addicted. They -- 11 this -- this is a person who never took an 12 opioid. Okay? Let's give you a hypothetical. 13 Never took an opioid, was -- and never saw a 14 doctor for pain but starts to use heroin. 15 And you've told us that the 16 defendants are substantially responsible for 17 that, right? 18 A. By degrees of separation in Cuyahoga 19 County. 20 Q. And then they go and they break into 21 someone's car and steal their radio, and the 22 defendants are responsible for that, too, 23 right? 24 MR. BADALA: Objection to form. 25 THE WITNESS: By degrees of</p>	<p style="text-align: right;">Page 280</p> <p>1 THE WITNESS: In some of those 2 instances. Obviously we had heroin addicts 3 before an opioid pain reliever crisis. And 4 some of those folks -- you know, I couldn't go 5 back in 1970 and say, you know, "That guy has, 6 you know, an opioid pain reliever problem." 7 But in bulk, a lot of our population 8 who are addicted to heroin have, you know, 9 records of using opioid pain relievers. 10 Q. Okay. But you're -- you're 11 changing -- you're changing the -- the story 12 here, Doctor. This I'm -- you know, that's -- 13 A. I -- 14 Q. Look, this is -- this is -- hold on 15 a second. 16 This is -- this is a lawsuit that 17 the county has brought. So I'm asking you some 18 questions, right? 19 Seems -- you're -- you're saying 20 that these seem absurd or hypothetical. And -- 21 and, you know, to some extent I would agree 22 with you. 23 But the question is, to the extent 24 that -- and that's why I very carefully said in 25 your -- you were changing it -- if someone</p>
<p style="text-align: right;">Page 279</p> <p>1 separation again. 2 BY MR. CHEFFO: 3 Q. And then they take the radio, and 4 they get into their own car, and they're 5 speeding away from the police, and they hit 6 somebody and injure them. 7 The defendants are responsible for 8 that too? 9 A. You know, we can track things back, 10 you know, to ridiculous levels. I think -- 11 Q. Are we doing that? 12 A. I kind of feel like we are. 13 Q. I think so too. 14 A. But I think, you know, if you're 15 telling me is, you know, an addicted population 16 in this county referable back to the 17 defendants, I would say my answer to that is 18 yes. 19 Q. For heroin? 20 A. For heroin. 21 Q. Even if they never were -- had an 22 addiction disorder with any product made by any 23 of the defendants? 24 MR. BADALA: Objection to form. 25 Asked and answered.</p>	<p style="text-align: right;">Page 281</p> <p>1 never saw a doctor and was prescribed opioids, 2 they never took an opioid medicine, they never 3 saw an ad or any information about opioids, but 4 through some channel, whether it's initially 5 starting on heroin or they initially started on 6 illicit fentanyl or methamphetamine or crack 7 cocaine or something, they found their way 8 taking heroin, never having had a prescription 9 or a doctor who said, "You should take an 10 opioid." 11 Okay? That's -- that's -- that's my 12 population. 13 A. Okay. 14 Q. Okay. 15 MR. BADALA: Objection to form. 16 BY MR. CHEFFO: 17 Q. Now, my question is do you believe 18 that the defendants are substantially 19 responsible for that person's overdose or 20 addiction? 21 MR. BADALA: Objection to form. 22 THE WITNESS: I think they could be; 23 yes. 24 BY MR. CHEFFO: 25 Q. Are they?</p>

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1 A. They could be.  
 2 MR. BADALA: Objection to form.  
 3 THE WITNESS: I can't tell you,  
 4 again, there was ever heroin abuse before  
 5 opioid pain relievers. But the initiation, I  
 6 don't know to what extent that follows the  
 7 chain of people back to someone who did get  
 8 addicted because of opioid pain relievers.  
 9 The glut of heroin in our area is  
 10 largely created by the addicted population who  
 11 are referable back to the defendants.  
 12 And to me, that isn't a big stretch,  
 13 like trying to go from a car accident to  
 14 something. That has a pretty clear link going  
 15 back, to my opinion.  
 16 BY MR. CHEFFO:  
 17 Q. But you'd want to know at least what  
 18 the link was, right?  
 19 MR. BADALA: Objection to form.  
 20 THE WITNESS: The link being how do  
 21 we go back to that?  
 22 BY MR. CHEFFO:  
 23 Q. Yeah.  
 24 How -- how do you --  
 25 A. I don't know that you could do that

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1 on every individual case. But I'd say, you  
 2 know, in general, we have, you know, more  
 3 heroin in this area; we have more addicts in  
 4 this area; and that's a result of, you know,  
 5 overprescribing, overdistribution.  
 6 So it does refer back to the  
 7 defendants.  
 8 Q. So do -- you said you -- you don't  
 9 think people wake up one day and say, "I want  
 10 to go use heroin."  
 11 Is that your testimony?  
 12 MR. BADALA: Objection to form.  
 13 THE WITNESS: I, you know, have  
 14 interacted with individuals who were heroin  
 15 addicts through the task force. And I have  
 16 never heard that story.  
 17 BY MR. CHEFFO:  
 18 Q. Have you ever heard someone wake up  
 19 one day and say, "I've never used opioids, but  
 20 I want to go and buy carfentanil or fentanyl"?  
 21 A. No.  
 22 Q. Have you ever heard someone wake up  
 23 and say, "I've never used or abused any other  
 24 drugs. I want to go and use OxyContin"?  
 25 A. Not something I'm familiar with, no.

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1 Q. So all of those people started -- or  
 2 many of them started with some other pathway,  
 3 right?  
 4 MR. BADALA: Objection to form.  
 5 THE WITNESS: Okay.  
 6 BY MR. CHEFFO:  
 7 Q. Alcohol, right?  
 8 Marijuana perhaps. Then maybe  
 9 cocaine. Then maybe methamphetamines.  
 10 MR. BADALA: Objection.  
 11 BY MR. CHEFFO:  
 12 Q. Some -- some percentage of the  
 13 population wound up getting there through other  
 14 addictive behaviors; isn't that fair?  
 15 MR. BADALA: Objection to form.  
 16 THE WITNESS: I -- I don't know that  
 17 I could say that.  
 18 BY MR. CHEFFO:  
 19 Q. Well, if you don't know that you can  
 20 say that, how can you then trace anybody to a  
 21 prescription opioid?  
 22 MR. BADALA: Objection to form.  
 23 THE WITNESS: Because people get  
 24 addicted to prescription opioids when they're  
 25 prescribed to them. And if that supply gets

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1 taken off, then, you know, they may start to  
 2 transition into things either because they're  
 3 less expensive, like heroin was, or more  
 4 available.  
 5 BY MR. CHEFFO:  
 6 Q. But I've asked you a number of  
 7 times, Doctor. You can't tell me how -- what  
 8 percentage of those.  
 9 I mean are all of the heroin users,  
 10 are they people who started on prescription  
 11 opioids?  
 12 MR. BADALA: Objection to form.  
 13 THE WITNESS: I think I've answered  
 14 that question multiple times. And my answer to  
 15 that is no.  
 16 MR. CHEFFO: Right.  
 17 THE WITNESS: I mean there were  
 18 people who were addicted to heroin, came back  
 19 from Vietnam, and didn't have prescription  
 20 opioids as their pathway to that.  
 21 MR. CHEFFO: Okay. Let's take a  
 22 two-minute break, please.  
 23 THE VIDEOGRAPHER: We are going off  
 24 the record.  
 25 This is the end of Media Unit No. 4.

<p style="text-align: right;">Page 286</p> <p>1 The time is 3:36.  2 (A short recess was taken.)  3 THE VIDEOGRAPHER: We are going back  4 on the record.  5 This is the start of Media Unit No.  6 5.  7 The time is 3:35.  8 You may proceed, Counsel.  9 MR. CHEFFO: Thank you.  10 BY MR. CHEFFO:  11 Q. Sir, would you look at Exhibit 1,  12 please, and turn to that chart on Page 4.  13 A. This one, right?  14 Q. Yes. Thank you.  15 A. Okay. Yes.  16 Q. I -- I'm not sure if I misheard, but  17 I just want the ask you a question or two about  18 the case numbers on the bottom.  19 Do you see that?  20 They're -- for each year there's a  21 number of cases listed?  22 A. Oh, like 2006, 250?  23 Q. Yes, sir.  24 A. Yes. Yeah. Okay.  25 Q. Do those numbers include suicides?</p>	<p style="text-align: right;">Page 288</p> <p>1 be as accurate if we were just wanting to talk  2 about accidental deaths if we had inadvertently  3 caught the suicides in there.  4 Q. How many -- approximately how many  5 suicides per year are in Cuyahoga related to  6 ingestion of drugs?  7 MR. BADALA: Objection to form.  8 THE WITNESS: How many suicides --  9 BY MR. CHEFFO:  10 Q. How many people kill themselves or  11 commit suicide by ingesting lawful or illegal  12 drugs?  13 A. I don't know that. We had 215  14 individuals last year who took their life. And  15 that was a rise over other years, which would  16 be about 180 or so. I know firearms account  17 for over half of that. And hanging would be  18 another percentage.  19 So the drug overdoses, while not  20 zero, I -- I don't know the exact number. But  21 those are sort of the bigger ones. And drug  22 overdose I think is third in that list. But  23 it's substantially behind firearms.  24 Q. And has the -- has Cuyahoga brought  25 a lawsuit against the manufacturers of</p>
<p style="text-align: right;">Page 287</p> <p>1 A. I don't think so, but I honestly  2 don't know that for certain.  3 Q. They shouldn't though, right?  4 A. I don't think they do.  5 Q. Okay. And why would you want to  6 exclude the suicides from that number?  7 MR. BADALA: Objection to form.  8 THE WITNESS: Kind of like a  9 different public health issue. I would say  10 they can sometimes be interrelated because one  11 of the big risk factors for suicide is  12 substance abuse.  13 But in terms of trying to track the  14 overdose, you know, crisis in our county, we  15 wanted to focus more on the accidental  16 overdoses.  17 BY MR. CHEFFO:  18 Q. And if they were included, that  19 would kind of unnecessarily and improperly  20 inflate the numbers from a apples-to-apples  21 comparison, right?  22 A. It could. I think they would be  23 dwarfed by the accidental data, just because  24 the majority of our suicides involve firearms  25 or hangings. But it would -- say it wouldn't</p>	<p style="text-align: right;">Page 289</p> <p>1 firearms?  2 MR. BADALA: Objection to form.  3 THE WITNESS: Not that I'm aware of.  4 BY MR. CHEFFO:  5 Q. Have you -- are you aware of any  6 intention to do so?  7 A. Has not been discussed with me. So  8 no, I don't know.  9 Q. Did you learn about opioids when you  10 were in medical school?  11 A. Yes. In pharmacology.  12 Q. And even prior to medical school,  13 had you generally heard about opioids and  14 heroin addiction and abuse of opioids?  15 A. I remember that heroin situation  16 that was -- I've mentioned a couple times in  17 the 1970s. And that's probably -- I was a kid  18 back then. But that's my earliest recollection  19 of opioids in that kind of a setting.  20 Q. And in that early setting and in  21 your -- your law school days -- excuse me --  22 A. Medical school.  23 Q. Medical school. Pardon me.  24 A. I didn't make it to law school.  25 Q. I -- I downgraded you.</p>

<p style="text-align: right;">Page 290</p> <p>1 A. Upgrade, I think.</p> <p>2 Q. -- did you learn that opioids had</p> <p>3 the risk of addiction?</p> <p>4 A. Back in the 1970s or --</p> <p>5 Q. Back in the 1970s and also when you</p> <p>6 went to medical school.</p> <p>7 A. Of, yes. Sure.</p> <p>8 Q. And that was something that was</p> <p>9 common knowledge amongst you -- you and your --</p> <p>10 your colleagues and your professors, right?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MR. CHEFFO:</p> <p>14 Q. Do you remember, as a youth and</p> <p>15 teenager and young adult, friends and family</p> <p>16 members, parents perhaps, warning you, saying,</p> <p>17 "Be careful. Never get involved with heroin</p> <p>18 because it can be addictive"?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 THE WITNESS: I think there was a</p> <p>21 lot of messaging I remember as a kid about just</p> <p>22 like don't use drugs. Heroin would certainly</p> <p>23 have been one of those drugs. But there were</p> <p>24 other things. And maybe I just heard more the</p> <p>25 marijuana and those things.</p>	<p style="text-align: right;">Page 292</p> <p>1 the hypothetical person that it posed, which is</p> <p>2 the person who never received opioids at all,</p> <p>3 and determined -- and never received</p> <p>4 prescription opioids at all, and determined to</p> <p>5 go out and use heroin or fentanyl and</p> <p>6 overdosed. Okay?</p> <p>7 With respect to that person, could</p> <p>8 you say, without knowing more, whether it's --</p> <p>9 it's more likely than not that that person</p> <p>10 became addicted or overdosed based on the</p> <p>11 conduct of the defendants, or would you need to</p> <p>12 know more?</p> <p>13 A. I would want to know more.</p> <p>14 Q. And what would you want to know more</p> <p>15 in order to either validate your view one way</p> <p>16 or the other?</p> <p>17 A. You know, where they got their drug</p> <p>18 from; who they might have associated with; who</p> <p>19 might have encouraged that use.</p> <p>20 You know, to refer things back to</p> <p>21 the defendants, then, you know, how are, you</p> <p>22 know, those individuals potentially related to</p> <p>23 opioid pain relievers. You know, and, yeah,</p> <p>24 the -- the availability of heroin, I would say,</p> <p>25 you know, it probably -- time frame when you</p>
<p style="text-align: right;">Page 291</p> <p>1 But heroin I think would have been</p> <p>2 in that mix of things, too, that we were</p> <p>3 advised to stay away from.</p> <p>4 BY MR. CHEFFO:</p> <p>5 Q. And I take it there's -- there's</p> <p>6 never been a time, either then or in your life,</p> <p>7 where you came to the view that opioids did not</p> <p>8 have a risk of addiction, right?</p> <p>9 A. No.</p> <p>10 Q. It's been a view you've held and had</p> <p>11 pretty much your whole adult life, right?</p> <p>12 A. Yeah. Even back to being a kid, I</p> <p>13 think, you know, that was kind of what I was</p> <p>14 taught.</p> <p>15 Q. Have you met any -- any doctors that</p> <p>16 have said that they don't believe that there's</p> <p>17 a risk of addiction with opioid medicines?</p> <p>18 A. Not that I remember.</p> <p>19 Q. Would you think they were quacks if</p> <p>20 they had that view?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: I -- I'd wonder about</p> <p>23 what they were talking about, yeah.</p> <p>24 BY MR. CHEFFO:</p> <p>25 Q. Going back for a minute to the --</p>	<p style="text-align: right;">Page 293</p> <p>1 have that hypothetical person. You know, we've</p> <p>2 had a -- a big glut of heroin in our community</p> <p>3 and more recently fentanyl.</p> <p>4 So I think that those, again, can be</p> <p>5 referred back, at least in part, to the actions</p> <p>6 of the defendants. And -- yeah. Probably</p> <p>7 those things.</p> <p>8 Q. Are -- are -- are fentanyl abusers</p> <p>9 and heroin abusers interchangeable?</p> <p>10 A. It's a good question. And I think</p> <p>11 it's another one that we wanted to answer</p> <p>12 actually, at least on our data. So what we've</p> <p>13 done in my office in terms of characterizing</p> <p>14 them has been a couple of different things.</p> <p>15 As I mentioned we've continued to</p> <p>16 collect that death review data. And one of the</p> <p>17 projects that we just completed and will be</p> <p>18 presenting at the American academy of forensic</p> <p>19 sciences in -- next month involves kind of a</p> <p>20 look at our 2016 heroin -- or pardon me --</p> <p>21 fentanyl overdoses, comparing them back to our</p> <p>22 2012 heroin overdoses in terms of the</p> <p>23 demographic data. So age, race, gender. And</p> <p>24 they're very similar.</p> <p>25 We also looked at things like</p>

<p style="text-align: right;">Page 294</p> <p>1 whether they received Naloxone, the antidote.  2 And unfortunately that was kind of similar too.  3 And we also looked at the percentage  4 of them who had a file with OARRS. And that  5 was about 70 percent. And of that, 90 percent  6 of them were people who had a prescription for  7 opioid pain relievers.  8 Q. Well --  9 A. So I think they're similar  10 populations, the 2012. That's the point of our  11 research is the population of 2016 fentanyl  12 overdoses is a similar population to the heroin  13 overdose population that we saw at the  14 beginning of -- when we recognized first, you  15 know, that things were changing here.  16 And then I kind of have the feeling  17 that we want to be able to go back and look at  18 these populations independently before we make  19 assumptions about, oh, it -- it has to go back  20 to this, it has to go back to that. I tried to  21 be -- think of -- more of a scientist than just  22 taking anecdotes on that.  23 Q. You -- you would be wrong to just  24 take anecdotes and draw conclusions, right?  25 A. You know, decision making I think is</p>	<p style="text-align: right;">Page 296</p> <p>1 A. -- national meeting in -- in -- in  2 Baltimore. We submitted an abstract. My  3 graduate student submitted an abstract. I  4 don't remember the exact date.  5 Q. Was it produced in this case?  6 A. I don't know.  7 Q. Well, did you give it to any of the  8 lawyers?  9 A. A lot of the document production was  10 done with my operations officer. So I don't  11 know if that was provided or not.  12 Q. And -- and the abstract -- the  13 abstract -- so I want to -- you compared -- I  14 want to come back to this in one second. I  15 think I had asked you a different question, but  16 I'm happy to -- to ask you some of these.  17 I was actually initially asking you  18 about whether people -- the population of  19 people who abuse heroin are similar to  20 fentanyl.  21 In other words, do people go out on  22 the street, let's say, and if they have a -- an  23 abuse problem, and they -- will they  24 interchangeably use heroin or fentanyl; or do  25 you know?</p>
<p style="text-align: right;">Page 295</p> <p>1 based on the best information you have. But if  2 you have access to better information, I would  3 always try to use that.  4 Q. Anecdotes is not a way to make  5 public policy, is it?  6 MR. BADALA: Objection to form.  7 THE WITNESS: Again, I -- I would  8 have to say, you know, when you're making  9 decisions, there are times when the only  10 information you have is largely anecdotal. And  11 if it's compelling, I could see instances where  12 somebody might make a decision -- a policy  13 decision based on that and maybe revisit it to  14 kind of see does the data support that.  15 But sometimes you have to make the  16 best decision with the information you have in  17 front of you.  18 BY MR. CHEFFO:  19 Q. Tell me about -- so have you  20 submitted this report for -- or study or --  21 what -- what is it?  22 It is a -- it is a publication, or  23 is it a --  24 A. It's a --  25 Q. -- a board?</p>	<p style="text-align: right;">Page 297</p> <p>1 A. I think, you know, the answer to  2 that may be they don't know what they're  3 getting in some instances. One of the programs  4 that the county's tried to introduce, because  5 of the lethality of fentanyl -- fentanyl is a  6 much more potent drug than heroin -- has been  7 to give to the users fentanyl test strips to  8 see if that drug is present in what they  9 purchased.  10 And I don't have data from Cuyahoga  11 County. But there's data that says, from a  12 colleague of mine in Rhode Island, that it will  13 the change their behavior if they see fentanyl  14 is present.  15 I don't know if that was -- I got  16 off on a tangent, but --  17 Q. No, no.  18 So -- so your -- is it your  19 testimony that you believe that often people  20 who use illicit fentanyl don't -- are not aware  21 that it's -- it's fentanyl, and they are  22 seeking heroin, and they wind up with fentanyl,  23 and it's more potent, so it's more dangerous?  24 A. I can't speak to kind of some of the  25 motivations. I do think that, you know, based</p>

<p style="text-align: right;">Page 298</p> <p>1 on that information and applying it to our  2 community, we are at least, you know,  3 considering that possibility; that if an  4 individual knows something they thought was  5 heroin has fentanyl in it, it may change their  6 behavior. That's the basis for the program.  7 Q. And you told -- you just mentioned  8 that you did a -- a -- a look at 2016 data for  9 fentanyl users?  10 A. Fentanyl -- people who died of  11 fentanyl overdoses, yes.  12 Q. And you looked at the OARRS  13 database?  14 A. We went back and looked at the OARRS  15 database for those individuals, yes.  16 Q. And what were you looking for?  17 A. Whether they had an OARRS file and  18 whether they had a -- what the file was for and  19 whether there was evidence of doctor shopping.  20 Q. That was the -- that was the  21 hypothesis?  22 A. The hypothesis for --  23 Q. Well, what's -- what was the point  24 of this paper? What were you trying to convey  25 to the reader?</p>	<p style="text-align: right;">Page 300</p> <p>1 to answer --  2 Q. What factors were you --  3 A. -- from my standpoint.  4 Q. What factors were you looking at to  5 determine if they were similar?  6 Were you looking at who their  7 doctors were?  8 A. Meaning who --  9 Q. Who was prescribing it.  10 A. Who was prescribing opioids or --  11 Q. Yeah.  12 A. We looked at the OARRS data, but we  13 didn't specifically look at the physicians who  14 were prescribing --  15 Q. Did you look at why --  16 A. -- other than to -- I'm sorry. If I  17 could finish -- to see if there were people who  18 had five or more prescribers, the doctor  19 shopping folks.  20 Q. So were you looking for reasons as  21 to why -- well, strike that.  22 Did -- were you -- tell us the  23 factors that you looked at to determine whether  24 there were similarities.  25 A. We looked at age --</p>
<p style="text-align: right;">Page 299</p> <p>1 A. The purpose of the research was to  2 take the fentanyl population -- overdose  3 population -- pardon me -- and see whether they  4 were similar or different than the heroin  5 overdose population that we had seen in 2012.  6 We actually used 2013 data for the OARRS  7 comparison because it was not the deidentified  8 data.  9 And, you know, as I say, there are  10 heroin epidemics without opioid pain relievers.  11 We've never really had a fentanyl epidemic --  12 we've never had a drug epidemic like fentanyl.  13 And I thought that it was an  14 important question to answer are the people who  15 overdosed on fentanyl in 2016, at a later phase  16 of the opioid crisis, similar to the people who  17 overdosed in 2012 on heroin? Because we still  18 have intervention strategies, you know, that  19 are trying to address that --  20 Q. Right.  21 And what --  22 A. -- 2012 population. And again,  23 limited resources, substantial worsening of the  24 crisis. Want to make sure, yeah, we have the  25 right people. So it was an important question</p>	<p style="text-align: right;">Page 301</p> <p>1 Q. Okay.  2 A. -- race, gender, whether they had a  3 history of substance abuse before, whether they  4 were using intravenous drugs, whether Naloxone  5 had been administered by EMS.  6 We were looking at whether they had  7 had contact with the jail system. We were  8 looking at whether they had contact with the  9 medical systems, the three major hospitals, in  10 addition to -- or I'm sorry -- the three major  11 hospitals. And we looked to see whether they  12 had been enrolled in drug court, which was  13 information we could access.  14 I don't remember if -- we -- we saw  15 if EMS had responded to them and the number of  16 times EMS had administered Naloxone. Because  17 that was relevant for our Project DAWN, the  18 Deaths Avoided With Naloxone. Because what we  19 saw back in 2012 was that we were seeing a lot  20 of EMS responses, nearly, you know, 90,  21 95 percent, but only 25 percent were deemed  22 salvageable for EMS to administer Naloxone.  23 But an additional 50 percent of  24 those people died in proximity to somebody  25 else. So they were either using drugs with</p>

<p style="text-align: right;">Page 302</p> <p>1 somebody else in the minority of cases, or they</p> <p>2 had an instance where there was somebody -- and</p> <p>3 we would hear these heartbreaking stories of</p> <p>4 somebody who would come home intoxicated; they</p> <p>5 looked high; they went to bed; they were</p> <p>6 storing like crazy; kept everybody up; and then</p> <p>7 they stopped snoring; and, you know, they'd</p> <p>8 find them dead in the morning.</p> <p>9 And when they stopped snoring, they</p> <p>10 were dying. That's when they needed Naloxone.</p> <p>11 So that was data that was used to support our</p> <p>12 Naloxone program. So we looked at that so --</p> <p>13 as a factor as well.</p> <p>14 Q. What -- what did you look at -- I</p> <p>15 want to -- I want to be very specific on these.</p> <p>16 So if you could just tell me the specific</p> <p>17 answer. I'll go through each one.</p> <p>18 To determine someone's substance</p> <p>19 abuse history, what did you do to make that</p> <p>20 determination in both years?</p> <p>21 A. We would rely on -- if there were</p> <p>22 arrest records, that was one piece. We would</p> <p>23 also -- interviews at the scene by my</p> <p>24 investigator, whether somebody had a history of</p> <p>25 substance abuse.</p>	<p style="text-align: right;">Page 304</p> <p>1 force.</p> <p>2 Q. Did -- did you just say --</p> <p>3 A. I think that was --</p> <p>4 Q. -- it was public?</p> <p>5 A. I might have misspoken on that. We</p> <p>6 had access to it --</p> <p>7 Q. Okay.</p> <p>8 A. -- is what I would say. I would</p> <p>9 think probably those things would be protected</p> <p>10 by HIPAA and other things. You can't tell</p> <p>11 people who was in drug treatment.</p> <p>12 We were working, as part of our task</p> <p>13 force, with those folks. So we had that</p> <p>14 access. But I -- I think you're right that</p> <p>15 that certainly wouldn't be something that --</p> <p>16 Q. So --</p> <p>17 A. -- we'd consider public data.</p> <p>18 Q. So you --</p> <p>19 A. They're public institutions, I would</p> <p>20 say.</p> <p>21 Q. So you looked at data to determine</p> <p>22 whether somebody was in drug treatment for</p> <p>23 years, 2013 and 2016, as part of your paper?</p> <p>24 A. It's part of our public health</p> <p>25 intervention. And then this is the data we're</p>
<p style="text-align: right;">Page 303</p> <p>1 Q. Anything else?</p> <p>2 A. I think those were the big</p> <p>3 information streams that we used for that</p> <p>4 determination.</p> <p>5 Q. And -- and in many determinate --</p> <p>6 were you able to determine what -- what -- the</p> <p>7 rate of uncovering whether they had substance</p> <p>8 abuse treatment?</p> <p>9 A. Treatment we went back and looked at</p> <p>10 the public data through the ADAMHS -- the</p> <p>11 Alcohol and Drug Addiction Mental Health</p> <p>12 Services -- data. That was furnished us to</p> <p>13 because it's public. There were private</p> <p>14 treatment facilities here.</p> <p>15 And as these charts would be</p> <p>16 abstracted, we would look at whether they had</p> <p>17 the public data and also whether there was</p> <p>18 anything in our history taking at the scene</p> <p>19 that suggested, oh, they're not going to show</p> <p>20 up on the public data because they went to a</p> <p>21 private treatment facility.</p> <p>22 Q. And ADAMHS data is substance abuse</p> <p>23 data that's public?</p> <p>24 A. I don't know. I mean we had access</p> <p>25 to it as part of our collaboration and task</p>	<p style="text-align: right;">Page 305</p> <p>1 going to present.</p> <p>2 Q. Okay. And to determine if they ever</p> <p>3 were an intervenous drug user, was that largely</p> <p>4 by visual examination?</p> <p>5 A. Again, the two things. Obviously if</p> <p>6 we had somebody who had a puncture site on</p> <p>7 them, we would, you know, rule out whether that</p> <p>8 was a therapeutic thing from EMS, if we could</p> <p>9 do that; and if it wasn't, then we would infer</p> <p>10 from that that they were intravenously using</p> <p>11 drugs.</p> <p>12 The scene also could give us</p> <p>13 indications both whether syringes were present</p> <p>14 as well as the information of other individuals</p> <p>15 at the scene.</p> <p>16 Q. Okay.</p> <p>17 A. So we try to collect as much data</p> <p>18 from different streams as we can.</p> <p>19 Q. What about Naloxone use; how did you</p> <p>20 determine that?</p> <p>21 A. That would be record -- recorded by</p> <p>22 EMS in their response to these tests. We get</p> <p>23 an EMS run sheet for all the deaths where EMS</p> <p>24 responds. They come to our office. And the</p> <p>25 drug overdoses would be a subset of that.</p>

<p style="text-align: right;">Page 306</p> <p>1 Q. And you matched those individually</p> <p>2 to various people?</p> <p>3 You got the records, and they said</p> <p>4 John Smith, Naloxone treatment, and you match</p> <p>5 it to an overdose death in your office?</p> <p>6 A. Maybe I should back up.</p> <p>7 When we're investigating a death in</p> <p>8 our office, if there was an EMS response, we</p> <p>9 would request and obtain the EMS run sheet as</p> <p>10 part of our practice, drug overdoses or other</p> <p>11 things. So in abstracting a chart to kind of</p> <p>12 pull the data out of it, we would be able to</p> <p>13 see, you know, an EMS run sheet, did they</p> <p>14 respond.</p> <p>15 Q. I'm -- so you've heard the term</p> <p>16 "garage in, garage out," right?</p> <p>17 A. Yeah.</p> <p>18 Q. Right.</p> <p>19 So you've told me you've done this</p> <p>20 publication, right? And you've told me there's</p> <p>21 varied data points that you're using to try to</p> <p>22 draw some comparisons. And we haven't seen</p> <p>23 this, to my knowledge, paper. It hasn't been</p> <p>24 produced.</p> <p>25 So I'm just trying to under --</p>	<p style="text-align: right;">Page 308</p> <p>1 population in 2013 and something in 2000 --</p> <p>2 group of people in 2016, and you thought that</p> <p>3 there was some parallels, right?</p> <p>4 That's your conclusion?</p> <p>5 A. Yes. The populations are --</p> <p>6 Q. Okay.</p> <p>7 A. -- very similar.</p> <p>8 Q. And then to try to look at them, you</p> <p>9 -- you -- you identified a number of factors.</p> <p>10 And that's what I'm just trying to understand</p> <p>11 as to how you got to those factors, right?</p> <p>12 We've talked about substance abuse.</p> <p>13 Talked about intravenous.</p> <p>14 Now, Naloxone, is it only from the</p> <p>15 EMS record of -- you know, these are -- these</p> <p>16 are overdoses -- when someone died; or did you</p> <p>17 get additional records of prior Naloxone</p> <p>18 administrations?</p> <p>19 A. Oh, you mean from Project DAWN or</p> <p>20 something, if I'm --</p> <p>21 Q. No.</p> <p>22 A. -- understanding you right?</p> <p>23 Q. If -- if John Smith had previously</p> <p>24 been -- had overdosed and been revived with</p> <p>25 Naloxone.</p>
<p style="text-align: right;">Page 307</p> <p>1 A. It's not a paper, sir. I'm sorry.</p> <p>2 It's an abstract we submitted for presentation.</p> <p>3 Q. Well, what -- what's the difference?</p> <p>4 A. I think of a paper as, you know,</p> <p>5 something like we had there.</p> <p>6 Q. So what's an ab -- is it like a</p> <p>7 board at a medical conference?</p> <p>8 A. I -- I didn't understand the</p> <p>9 question.</p> <p>10 Q. What is it, like a board at a</p> <p>11 medical conference; or is it on paper, a</p> <p>12 written document?</p> <p>13 A. It's a abstract. It's a written</p> <p>14 document that we submitted to the meeting that</p> <p>15 we had, and that's our latest data.</p> <p>16 I don't know, you know, what was</p> <p>17 supplied to you. But certainly, you know, I</p> <p>18 can supply that to our attorneys --</p> <p>19 Q. Okay.</p> <p>20 A. -- when I get back to the office.</p> <p>21 Q. Well, let me just continue asking</p> <p>22 questions.</p> <p>23 You said you -- in order to -- what</p> <p>24 I -- what it sounds like you were trying to do</p> <p>25 was to draw some comparisons between a</p>	<p style="text-align: right;">Page 309</p> <p>1 A. We would potentially capture that in</p> <p>2 the contact with the medical systems. But for</p> <p>3 the Naloxone, as I'm conveying it to you,</p> <p>4 that's their terminal event.</p> <p>5 So did EMS respond? And if EMS</p> <p>6 responded, did they administer Naloxone?</p> <p>7 That's the data set that I'm referring to.</p> <p>8 Q. And how did you find out if they had</p> <p>9 any contact with any jails?</p> <p>10 A. One of the original members of our</p> <p>11 poison death review committee was a</p> <p>12 representative of our sheriff's office. And</p> <p>13 they would basically search their records as</p> <p>14 the oversight for the jail to see if these</p> <p>15 folks had been incarcerated.</p> <p>16 Being in jail is a risk factor for</p> <p>17 opioid overdose in the abusers because they can</p> <p>18 lose their tolerance. That's why we opted to</p> <p>19 look at that.</p> <p>20 We also wanted to look at it because</p> <p>21 they're truly a captive audience. And we</p> <p>22 thought that, if we identified them, we could</p> <p>23 potentially, if it was a significant</p> <p>24 percentage, do some risk reduction education.</p> <p>25 So actually everybody who leaves the</p>

<p style="text-align: right;">Page 310</p> <p>1 justice center over there gets a letter from me 2 about risk reduction strategies around opioids. 3 Q. Doctor, I'm -- I'm just trying to 4 understand about -- you're -- you're giving a 5 lot of speeches now. And I know you're looking 6 to the camera, and you're giving a speech. 7 But I'm asking you very specific 8 questions about a report that we haven't seen, 9 and I've limited time. Okay? So I'd like you 10 to -- to focus, if you can, on my questions. 11 MR. BADALA: He's answering your 12 questions. 13 BY MR. CHEFFO: 14 Q. Now, I asked you how you got the 15 information from the drug court. You told me 16 somebody who sits on a task force had access. 17 Did that person get a name of all of 18 -- did you give them a list of the names of all 19 the people in 2013 and 2016 and ask them to go 20 and run them in a database? 21 Is that how it worked out? 22 A. Yes. We would furnish our list of 23 fentanyl overdoses and run those through a 24 database to see if they matched with people in 25 drug court or in the jail.</p>	<p style="text-align: right;">Page 312</p> <p>1 A. Right. The EMS run sheets. 2 Q. And who -- who's -- who's the person 3 whose -- what -- what organization did you send 4 this abstract to? 5 A. The abstract representing was sent 6 to the American Academy of Forensic Sciences. 7 Q. And who's the person there that you 8 deal with? 9 A. There is a submission abstract. I 10 don't know who receives that. Then those are 11 reviewed by different sections. So my section 12 is pathology, biology. And it would have been 13 reviewed, and it - it was accepted. 14 Q. When did you send this abstract in? 15 A. In the fall, I think. I don't 16 remember the date specifically. 17 Q. September, October? 18 A. I don't remember the date. I'd have 19 to check. 20 Q. Did you do any revisions to the 21 abstract? 22 A. No. We -- we sent it. And then, 23 you know, it's their decision after that. They 24 don't send it back to you and say, "Revised 25 this," or "Add this."</p>
<p style="text-align: right;">Page 311</p> <p>1 Q. Who did that? 2 A. Who did the -- 3 Q. Yeah. Who was the person who -- who 4 used the criminal justice database to do that 5 and then provided that information to you? 6 A. It was somebody in the sheriff's 7 office. I don't have a name to give you. 8 Q. Well, who's the person who sat on 9 task force with you that authorized that? 10 A. I think his name was Miguel 11 Caraballo. But that would have been in 2013. 12 Otherwise, we've been collecting this data not 13 face to face anymore. 2013 we met, we went 14 over the 194 overdoses face-to-face. And that 15 information was provided by somebody from the 16 sheriff's office. 17 There are minutes of those that I 18 believe were furnished. And that person would 19 be in the minutes. 20 Q. Okay. And did you -- did you 21 disclose to them that you were going to be 22 using this data for an abstract that you were 23 going to be sending outside of Cuyahoga? 24 A. I don't think so. 25 Q. And did -- you also access EMS data?</p>	<p style="text-align: right;">Page 313</p> <p>1 Q. Was it peer reviewed? 2 A. It's not a publication. So there's 3 a selection committee for these various 4 organizations. And I don't know the details of 5 what goes into the selection of the papers. 6 I haven't served in my own capacity 7 as a member of AAFS or name in that capacity. 8 So I don't know what went into the selection 9 process. 10 Q. And how was it presented? 11 Is it presented through a 12 PowerPoint? Is it a speech? Is it a board 13 like they do at medical conferences? Or do you 14 hand people out your abstract? 15 A. It's an abstract now. It was 16 accepted to be a poster presentation, but the 17 poster's not been created. 18 Q. I say "board." 19 That -- so you understood -- you 20 call it a poster? 21 A. Oh, poster. Yeah. 22 Q. Right. 23 You've seen those where they 24 basically put the big -- one big poster up, 25 right, and you stand by it and you talk about</p>

<p style="text-align: right;">Page 314</p> <p>1 it?</p> <p>2 Is that --</p> <p>3 A. Right.</p> <p>4 Q. -- what we're talking about?</p> <p>5 A. That's what we will ultimately be</p> <p>6 doing in February. The poster itself though</p> <p>7 hasn't been created.</p> <p>8 Q. Who are the other authors on this</p> <p>9 poster abstract?</p> <p>10 A. My student who collected data and</p> <p>11 analyzed it was Vaishali -- and that's</p> <p>12 V-A-I-S-H-A-L-I -- Deo, D-E-O, MD. And she is</p> <p>13 a student in the Case Western Reserve School of</p> <p>14 Public Health.</p> <p>15 Q. And in connection with any of these</p> <p>16 people, did you -- did you talk to any of the</p> <p>17 doctors who prescribed the opioids?</p> <p>18 A. The fentanyl overdose --</p> <p>19 Q. Yes.</p> <p>20 So I understood --</p> <p>21 A. That we --</p> <p>22 Q. -- one of the things you did was to</p> <p>23 look at the -- the overdoses and, amongst other</p> <p>24 factors, you checked the OARRS database to</p> <p>25 determine if there was a prescription at some</p>	<p style="text-align: right;">Page 316</p> <p>1 tell that from the database.</p> <p>2 Q. Well, you looked at a lot of</p> <p>3 different databases.</p> <p>4 You did -- there's -- in all of your</p> <p>5 analysis, you didn't -- you didn't check any</p> <p>6 databases or talk to anyone about why a</p> <p>7 particular doctor wrote a prescription, did</p> <p>8 you?</p> <p>9 A. No, we did not.</p> <p>10 Q. You didn't look at any medical</p> <p>11 records, check any databases, talk to anyone as</p> <p>12 to why that prescription was written for a</p> <p>13 particular patient, did you?</p> <p>14 A. There were medical records that we</p> <p>15 were accessing about treatment. I don't know</p> <p>16 that they specifically talked about why opiates</p> <p>17 would have been prescribed. We weren't looking</p> <p>18 at that --</p> <p>19 Q. Did you --</p> <p>20 A. -- data point.</p> <p>21 Q. That wasn't a factor, was it?</p> <p>22 A. Huh?</p> <p>23 Q. That wasn't a data point, was it?</p> <p>24 A. It wasn't a data point we were</p> <p>25 looking at, no.</p>
<p style="text-align: right;">Page 315</p> <p>1 point, right?</p> <p>2 A. That's right, yes.</p> <p>3 Q. And how far back did you go?</p> <p>4 A. As far back as the database would</p> <p>5 let us, which I think changed to three years</p> <p>6 for this study.</p> <p>7 Q. So you looked to see if there was a</p> <p>8 -- a -- an entry for -- in OARRS for any type</p> <p>9 of controlled substance, or were you only</p> <p>10 looking for opioids?</p> <p>11 A. Both. So the 70 percent number that</p> <p>12 I quoted was for any OARRS file, so any</p> <p>13 controlled substance. And the 90 percent of</p> <p>14 that, so 63 percent of the total, was for</p> <p>15 prescription opioids.</p> <p>16 Q. And you didn't talk to any doctor as</p> <p>17 to why they were prescribed, right?</p> <p>18 A. No. We didn't do that follow-up.</p> <p>19 Q. You didn't look as -- as to the</p> <p>20 basis for the prescription, did you?</p> <p>21 A. No. It wouldn't have been in the</p> <p>22 database.</p> <p>23 Q. You didn't look at whether it was</p> <p>24 received from a pill mill, did you?</p> <p>25 A. I don't think, you know, we could</p>	<p style="text-align: right;">Page 317</p> <p>1 Q. You didn't -- and couldn't determine</p> <p>2 whether the opioids were written after somebody</p> <p>3 first started using fentanyl, could you?</p> <p>4 A. No. We could just look back and see</p> <p>5 what percentage of the people who died of a</p> <p>6 fentanyl overdose had received a prescription</p> <p>7 for an opioid or a controlled substance through</p> <p>8 OARRS.</p> <p>9 Q. Did you compare how many people were</p> <p>10 incarcerated prior to receiving the</p> <p>11 prescription in OARRS?</p> <p>12 A. I don't think we went into that</p> <p>13 level. We identified the number of people who</p> <p>14 had been incarcerated, again as an intervention</p> <p>15 point potentially for public health education.</p> <p>16 I don't -- we didn't look at their timing of</p> <p>17 OARRS relative to their incarceration --</p> <p>18 Q. Did you look at --</p> <p>19 A. -- though --</p> <p>20 Q. Sorry.</p> <p>21 A. We didn't look at the timing of</p> <p>22 their incarceration relative to their</p> <p>23 prescribing, no.</p> <p>24 Q. So they could have been in jail well</p> <p>25 before they received a prescription or not; you</p>

<p style="text-align: right;">Page 318</p> <p>1 just don't know.</p> <p>2 That wasn't a data point, was it?</p> <p>3 A. I don't know.</p> <p>4 Q. And you didn't determine whether</p> <p>5 they had actually had an overdose and received</p> <p>6 Naloxone before they ever received the OARRS</p> <p>7 prescription, did you?</p> <p>8 A. And if I understand your question,</p> <p>9 whether they'd had an overdose, been revived</p> <p>10 with Naloxone, and then subsequently received</p> <p>11 another prescription?</p> <p>12 Q. Right.</p> <p>13 A. No. We didn't look at that</p> <p>14 specifically.</p> <p>15 I can say, you know, we didn't look</p> <p>16 at that in 2012 either. So we wanted to keep</p> <p>17 the population that we studied in 2012, the</p> <p>18 data we were getting in 2016, as close to that</p> <p>19 as we could so we could do comparisons.</p> <p>20 Q. Right.</p> <p>21 If -- if you were looking at whether</p> <p>22 someone had received addiction treatment, that</p> <p>23 was one of the things -- treated for substance</p> <p>24 abuse, right?</p> <p>25 A. Right. Rehabilitation treatment,</p>	<p style="text-align: right;">Page 320</p> <p>1 Q. Did you say that?</p> <p>2 A. It's certainly possible.</p> <p>3 Q. Did you say that?</p> <p>4 Did -- I mean -- let me ask you</p> <p>5 this: When you looked for drug abuse</p> <p>6 treatment, did it go back more than two or</p> <p>7 three years?</p> <p>8 A. I don't recall. We got the data</p> <p>9 from ADAMHS and -- I don't remember. It's</p> <p>10 certainly possible. Could have gone back</p> <p>11 further than that.</p> <p>12 Q. Right.</p> <p>13 And did you say, "By the way, it</p> <p>14 could be misleading if you think that what</p> <p>15 we're saying to you is someone actually took an</p> <p>16 opioid and then had treatment, when, in fact,</p> <p>17 they had treatment five years before they ever</p> <p>18 got an opioid"?</p> <p>19 Wouldn't that have been something</p> <p>20 that you'd want to convey to your -- your- -</p> <p>21 your consuming public?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 THE WITNESS: As I say, all</p> <p>24 information's valuable. We didn't look at</p> <p>25 that.</p>
<p style="text-align: right;">Page 319</p> <p>1 detox, those things.</p> <p>2 Q. You didn't look at whether they</p> <p>3 received detox or substance abuse treatment</p> <p>4 prior to receiving a prescription for an opioid</p> <p>5 from a doctor, right?</p> <p>6 A. We didn't specifically look at that</p> <p>7 time line, no.</p> <p>8 Q. And you didn't do that because you</p> <p>9 know it would have shown that a lot of these</p> <p>10 people actually had long histories of drug</p> <p>11 abuse prior to ever getting a prescription from</p> <p>12 a doctor that was listed in OARRS, right?</p> <p>13 A. No. I wouldn't characterize. We</p> <p>14 were just trying to collect information. I'm</p> <p>15 not trying to find out, you know, what -- as I</p> <p>16 understood your question, I'm not trying to</p> <p>17 hide anything there.</p> <p>18 Q. But you had information that would</p> <p>19 have clearly showed that people had had</p> <p>20 substance abuse treatment prior to ever</p> <p>21 receiving an opioid that was listed in the last</p> <p>22 two or three years in the OARRS database,</p> <p>23 right?</p> <p>24 A. We didn't parse it to that level.</p> <p>25 So it --</p>	<p style="text-align: right;">Page 321</p> <p>1 BY MR. CHEFFO:</p> <p>2 Q. Well, are you going to do that now</p> <p>3 that you've kind of thought of that issue so</p> <p>4 that no one is misled?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 THE WITNESS: As it stands now, we</p> <p>7 wanted to compare 2016 data to 2012 data. And</p> <p>8 I don't have the staff right now to do that.</p> <p>9 As I say, it could be a very interesting piece</p> <p>10 of information to know. But I -- I can't tell</p> <p>11 you I'm leaving here and going back to do it</p> <p>12 because I don't have the resources, given</p> <p>13 everything else that's going on in our county.</p> <p>14 BY MR. CHEFFO:</p> <p>15 Q. You had the resources to do the</p> <p>16 poster, right?</p> <p>17 A. I mentored a graduate student to do</p> <p>18 this poster and the research for it.</p> <p>19 Q. Do you stand behind it?</p> <p>20 Is it accurate?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 THE WITNESS: Is what accurate?</p> <p>23 BY MR. CHEFFO:</p> <p>24 Q. Did you lend your name and</p> <p>25 reputation to this board, or is it just</p>

<p style="text-align: right;">Page 322</p> <p>1 something that a student did on a frolic and 2 detour? 3 A. No. It's a legitimate scientific 4 study. 5 Q. And you want it to be as accurate as 6 possible, right? 7 A. Sure. 8 Q. You don't want it to mislead anyone, 9 do you? 10 A. No. 11 Q. And if you thought it would be 12 misleading, you would want to correct it, 13 right? 14 A. I have to do what I can do. I 15 wouldn't want to mislead anybody. And I think, 16 you know, what you talk about -- you know, if I 17 look at addiction as a chronic relapsing 18 illness, maybe people were in treatment, did 19 well, then relapsed later and started to abuse 20 opioid pain relievers. I don't know that. 21 I'm capturing a data set and sharing 22 it. I don't, you know, proffer this as the 23 final word on everything. It's valuable 24 information to move a discussion forward. 25 And I don't think it's my intent to</p>	<p style="text-align: right;">Page 324</p> <p>1 A. And I think we were. 2 Q. Okay. And you're going to produce 3 that -- that document and the drafts to your 4 lawyer, right? 5 You -- you can find that? 6 MR. BADALA: Objection to form. 7 We'll take it under consideration if 8 it hasn't been produced already. 9 MR. CHEFFO: Okay. 10 MR. BADALA: You're assuming it 11 hasn't been produced. 12 MR. CHEFFO: I am assuming that. 13 And it's -- it's -- if it is, then I apologize. 14 MR. BADALA: According -- 15 MR. CHEFFO: I haven't -- 16 MR. BADALA: Same -- 17 MR. CHEFFO: -- found it. 18 MR. BADALA: Yeah. 19 BY MR. CHEFFO: 20 Q. All right. Let me ask you a few 21 other questions just on resources. 22 Is there a time that you've asked 23 for additional resource from your boss in order 24 to do the function that you think your office 25 needs to do and they have been denied?</p>
<p style="text-align: right;">Page 323</p> <p>1 mislead anybody. I'm certainly not trying to 2 do that. I'm trying to do my best to 3 characterize two populations of people who 4 overdosed and say that they are similar so the 5 prevention strategies that were formulated back 6 in 2013 when we had this data, 2014, 2015, are 7 still potentially applicable to the population 8 we're dealing with now who overdosed on 9 fentanyl in 2016. 10 Q. But in order to find out if they're 11 similar, you have to ask the right questions, 12 right? 13 MR. BADALA: Objection to form. 14 BY MR. CHEFFO: 15 Q. You can't be result oriented, can 16 you? 17 A. I -- I didn't hear the beginning 18 of -- 19 Q. In order to -- 20 A. -- your question. 21 Q. -- to -- to find out if they are, in 22 fact, popular -- similar, you can't be result 23 oriented, right? 24 You have to be fair and neutral and 25 scientific about the comparison, right?</p>	<p style="text-align: right;">Page 325</p> <p>1 MR. BADALA: Objection to form. 2 THE WITNESS: I think our 3 administration's been supportive. And they may 4 not have said yes right away. But I think, 5 when I've asked for additional personnel or 6 staff -- pardon me -- staff or instrumentation, 7 that they were very responsive. I'm pleased 8 with, you know, how responsive they have been. 9 BY MR. CHEFFO: 10 Q. And do you think that we're past the 11 peak of the fentanyl issues in Cuyahoga? 12 A. I think it's too early to say. 13 Q. Where is the trend going? 14 A. The trend's going downward. But in 15 2015 -- or 2014, as you -- 2015 -- I'm sorry -- 16 the heroin trend went down, and then we saw a 17 fentanyl trend emerge. 18 And I don't know that the fentanyl 19 trend, I would be willing on one year of data, 20 to say we're out of the woods. I don't think 21 any of us said that at the press conference 22 either. We -- a lot of work to do. But it was 23 encouraging to see it headed in that direction. 24 Q. Are you going to devote more 25 resources to cocaine?</p>

<p style="text-align: right;">Page 326</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 THE WITNESS: What resources are</p> <p>3 you --</p> <p>4 BY MR. CHEFFO:</p> <p>5 Q. Are -- are -- is your department</p> <p>6 going to devote more resources in understanding</p> <p>7 the cocaine epidemic that you have and how to</p> <p>8 fix it --</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 BY MR. CHEFFO:</p> <p>11 Q. -- or address it?</p> <p>12 A. We continue to monitor the drug</p> <p>13 supply through our drug chemistry laboratory.</p> <p>14 We continue to do our autopsy work on any</p> <p>15 suspected drug overdose.</p> <p>16 I don't see analogs of cocaine</p> <p>17 emerging. So I think the resources that we're</p> <p>18 doing for drug overdose investigations cover</p> <p>19 the cocaine surge. We've gotten adequately</p> <p>20 staffed again.</p> <p>21 I don't know what other resources I</p> <p>22 would allocate to that, as I think we're</p> <p>23 sufficiently addressing it now. It's just, you</p> <p>24 know, it wasn't a good thing to see it rise</p> <p>25 again.</p>	<p style="text-align: right;">Page 328</p> <p>1 The time 14:27.</p> <p>2 (A short recess was taken.)</p> <p>3 THE VIDEOGRAPHER: We are going back</p> <p>4 on the record.</p> <p>5 This is the start of Media Unit No.</p> <p>6 6.</p> <p>7 The time is 4:40.</p> <p>8 You may proceed, Counsel.</p> <p>9 EXAMINATION BY COUNSEL FOR DEFENDANT</p> <p>10 AMERISOURCEBERGEN</p> <p>11 BY MR. BORANIAN:</p> <p>12 Q. Good afternoon, Dr. Gilson.</p> <p>13 A. Good afternoon, sir.</p> <p>14 Q. You've talked today and before quite</p> <p>15 a bit about the medical examiner's office's --</p> <p>16 office's use of the OARRS database. And I just</p> <p>17 have a couple of follow-up questions on that.</p> <p>18 The first thing is that are you able</p> <p>19 to designate delegates to access OARRS data on</p> <p>20 your behalf?</p> <p>21 A. Yes, I am.</p> <p>22 Q. And who are those delegates</p> <p>23 currently?</p> <p>24 A. Hugh Shannon, Dr. Deo, and I think</p> <p>25 our new epidemiologist, Manreet Bhullar,</p>
<p style="text-align: right;">Page 327</p> <p>1 Q. All right. I just have another</p> <p>2 question or two, and then I'm going to turn it</p> <p>3 over to my colleagues.</p> <p>4 Is there a -- is there a person</p> <p>5 who's in charge of databases and kind of</p> <p>6 information management in your office?</p> <p>7 A. We have a centralized IT department</p> <p>8 for the county. And we have in-house people</p> <p>9 who at one time were my employees; but now,</p> <p>10 when the county charter reform took place, they</p> <p>11 became centralized. The whole department</p> <p>12 became centralized.</p> <p>13 They would maintain our medical</p> <p>14 examiner database. They would also maintain a</p> <p>15 separate database for our crime laboratory.</p> <p>16 It's -- we can't get the two of those in one</p> <p>17 package, actually.</p> <p>18 MR. CHEFFO: Okay. Thanks, Doctor.</p> <p>19 I'm going to pass you over to my</p> <p>20 colleague.</p> <p>21 Let's go off the record for a</p> <p>22 minute.</p> <p>23 THE VIDEOGRAPHER: We -- we are</p> <p>24 going off the record.</p> <p>25 This is the end of Media Unit No. 5.</p>	<p style="text-align: right;">Page 329</p> <p>1 B-H-U-L-L-A-R.</p> <p>2 Q. And who is Hugh Shannon?</p> <p>3 A. Hugh Shannon is my chief of</p> <p>4 operations administrator. He -- his name --</p> <p>5 his title's changed. He's my chief of</p> <p>6 operations though. He oversees the</p> <p>7 nonlaboratory and nonmedical staff part of the</p> <p>8 operation.</p> <p>9 Q. How long has Mr. Shannon been with</p> <p>10 you?</p> <p>11 A. I arrived in Cuyahoga County in June</p> <p>12 of 2011. He's been here the whole time with</p> <p>13 me. It's my understanding he only got there a</p> <p>14 few weeks before me. I don't remember his</p> <p>15 exact start date.</p> <p>16 Q. Who is Dr. Deo?</p> <p>17 A. Dr. Deo is a research assistant to</p> <p>18 me. She is currently enrolled in the Case</p> <p>19 Western Reserve University master of public</p> <p>20 health program. She is an MD from previous</p> <p>21 schooling, but she was going back for that.</p> <p>22 Q. Is she an employee of Cuyahoga</p> <p>23 County?</p> <p>24 A. No, she is not.</p> <p>25 Q. And the epidemiologist, is it Dr.</p>

<p style="text-align: right;">Page 330</p> <p>1 Bhullar?</p> <p>2 A. Ms. Bhullar.</p> <p>3 Q. Ms. Bhullar.</p> <p>4 A. She's also --</p> <p>5 Q. And who is she?</p> <p>6 A. -- another epidemiologist -- or</p> <p>7 pardon me -- a master of public health student</p> <p>8 from Case Western Reserve University. And she</p> <p>9 is an employee. We hired her on a grant. So</p> <p>10 she is a Cuyahoga County employee for at least</p> <p>11 a month or so.</p> <p>12 Q. Have you had any other delegates?</p> <p>13 A. Erin Worrell, who was one of my</p> <p>14 investigators -- I don't know if she still has</p> <p>15 the access or not -- is only the other one I</p> <p>16 can think of right now.</p> <p>17 Q. And Ms. Worrell is an investigator</p> <p>18 in your office, correct?</p> <p>19 A. She's one of my senior</p> <p>20 investigators, yes.</p> <p>21 Q. And also a county employee, correct?</p> <p>22 A. Also a county employee, yes.</p> <p>23 Q. All right. Now, again, we've</p> <p>24 discussed quite a lot the office's use of the</p> <p>25 OARRS reports.</p>	<p style="text-align: right;">Page 332</p> <p>1 for doctor shopping. I don't think we</p> <p>2 necessarily keep individualized data for that.</p> <p>3 I don't -- I don't know at that level.</p> <p>4 Q. Who maintains that database?</p> <p>5 A. The agency.</p> <p>6 Q. The agency. Okay.</p> <p>7 Who would know where that database</p> <p>8 is and how it's maintained?</p> <p>9 A. Probably a better question for my</p> <p>10 operations officer.</p> <p>11 Q. Mr. Shannon?</p> <p>12 A. Mr. Shannon, yes.</p> <p>13 Q. Now, it's your understanding that it</p> <p>14 became mandatory in 2015 for prescribing</p> <p>15 physicians to check OARRS when prescribing</p> <p>16 controlled substances; is that right?</p> <p>17 A. Yes. I think there was a</p> <p>18 requirement for a check if the prescription was</p> <p>19 going to be longer than seven days. Or there</p> <p>20 was a requirement for the check every 90 days</p> <p>21 thereafter. That's my understanding of it.</p> <p>22 But if somebody was prescribing</p> <p>23 opioids in the hospital, for example, after</p> <p>24 surgery, they didn't have to check the OARRS</p> <p>25 database, is my understanding of it.</p>
<p style="text-align: right;">Page 331</p> <p>1 And without regard to whether</p> <p>2 they're printed or downloaded or -- or whatever</p> <p>3 where -- where is the information that your</p> <p>4 office gleans from the OARRS reports recorded?</p> <p>5 And clearly you've done analysis</p> <p>6 with those data, true?</p> <p>7 A. Yes.</p> <p>8 Q. So even if the reports are not</p> <p>9 physically printed aged put in some file in</p> <p>10 some organized fashion, where is the data</p> <p>11 gathered once gleaned from the OARRS database?</p> <p>12 A. We have a data sheet, a kind of a</p> <p>13 model form, that we use for our opioid</p> <p>14 investigations in general. The OARRS data is</p> <p>15 recorded as part of that data sheet, data</p> <p>16 analysis.</p> <p>17 And I believe we have an electronic</p> <p>18 database for that now where the OARRS data</p> <p>19 would be entered for -- you know, whether we</p> <p>20 have a doctor shopping situation, whether we</p> <p>21 have -- well, I guess whether we have a file at</p> <p>22 all, whether there is, you know, opioids</p> <p>23 prescribed.</p> <p>24 And I think we're still tracking the</p> <p>25 benzodiazepines. And then we also have a track</p>	<p style="text-align: right;">Page 333</p> <p>1 Q. Did it become mandatory in 2016 for</p> <p>2 pharmacies to check OARRS when dispensing</p> <p>3 controlled substances?</p> <p>4 A. That's my understanding of that,</p> <p>5 yes.</p> <p>6 Q. And regardless of those</p> <p>7 requirements, it's mandatory for pharmacies to</p> <p>8 report the dispensing of controlled substances,</p> <p>9 right?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 THE WITNESS: As I understand how</p> <p>12 the database was created, that was data that</p> <p>13 was collected from the pharmacies initially to</p> <p>14 create the database. And then at a point</p> <p>15 subsequent to that, and I want to say a couple</p> <p>16 years after that, it became mandatory for</p> <p>17 doctors' offices who were giving out controlled</p> <p>18 substances from the office also to enter that</p> <p>19 as a data point as well.</p> <p>20 BY MR. BORANIAN:</p> <p>21 Q. When did it become -- well, strike</p> <p>22 that.</p> <p>23 When was it required for pharmacies</p> <p>24 to report dispensing information to OARRS, if</p> <p>25 you know.</p>

<p style="text-align: right;">Page 334</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 THE WITNESS: As I understand it,</p> <p>3 when it started. But I -- I don't want to be</p> <p>4 certain about that. I thought they had to</p> <p>5 prescribe -- share that information to create</p> <p>6 the database.</p> <p>7 BY MR. BORANIAN:</p> <p>8 Q. Let me ask you about death</p> <p>9 certificates a little bit.</p> <p>10 The death certificate includes both</p> <p>11 the cause of death and a manner of death; is</p> <p>12 that right?</p> <p>13 A. That's correct. Yes.</p> <p>14 Q. So is it then part of a medical</p> <p>15 examiner's job to certify both the cause of</p> <p>16 death and the manner of death?</p> <p>17 A. Yes. That would be our statutory</p> <p>18 responsibility to do that.</p> <p>19 Q. So if a -- a forensic pathologist or</p> <p>20 one of your colleagues or if you yourself --</p> <p>21 A. They're all forensic pathologists --</p> <p>22 Q. Very well?</p> <p>23 A. -- in my office who would be doing</p> <p>24 the certifications.</p> <p>25 Q. Okay. If -- if any one of those</p>	<p style="text-align: right;">Page 336</p> <p>1 you have determined to be the cause of death?</p> <p>2 A. The combined effects of them.</p> <p>3 That's usually the wording that we'll use. But</p> <p>4 they are all contributing to the cause of</p> <p>5 death.</p> <p>6 Q. Now, once you have determined that</p> <p>7 an opioid death has occurred, how is that --</p> <p>8 well, you enter it on the death certificate,</p> <p>9 correct?</p> <p>10 A. Right. Okay.</p> <p>11 Q. And how is that recorded or coded</p> <p>12 otherwise in the department?</p> <p>13 A. I'm not sure I understand your</p> <p>14 question.</p> <p>15 Q. Well, is -- you've been -- you've</p> <p>16 run reports and statistics over the years on</p> <p>17 overdose deaths and other kinds of deaths.</p> <p>18 There must be some database from</p> <p>19 which you draw that information, right?</p> <p>20 A. Oh, sure. Yes.</p> <p>21 Q. So then how is -- you know, once</p> <p>22 you've determined that there's been an</p> <p>23 opioid-related death, you know, how is that</p> <p>24 coded and then entered into a database?</p> <p>25 A. We have a -- an office data system</p>
<p style="text-align: right;">Page 335</p> <p>1 professionals determines to a reasonable degree</p> <p>2 of medical certainty that a particular drug or</p> <p>3 substance was a cause of death, do you then</p> <p>4 name that particular drug or substance in the</p> <p>5 cause of death line on the death certificate?</p> <p>6 A. Yes, we do. In fact, that's a good</p> <p>7 question. Because one of the things I think</p> <p>8 that was a problem statewide was people were</p> <p>9 not doing that.</p> <p>10 I had one doctor in my office who</p> <p>11 had come up from Texas who also didn't</p> <p>12 routinely do that. And we gave him the nudge</p> <p>13 that we needed to do that. Because I think</p> <p>14 that's important information to track.</p> <p>15 And I also sit on the board of</p> <p>16 directors for the State Coroner's Association</p> <p>17 and made that recommendation through them, too,</p> <p>18 to the elected coroners throughout our state.</p> <p>19 Q. There are cases where there are</p> <p>20 multiple drugs presents in the tux [sic] -- in</p> <p>21 the tox reports, correct?</p> <p>22 A. Yes.</p> <p>23 Q. So the drugs then -- in such a case,</p> <p>24 the drugs that you list in the cause of death</p> <p>25 space on the certificate, are those drugs that</p>	<p style="text-align: right;">Page 337</p> <p>1 for the medical examiner side called VertiQ.</p> <p>2 And the cause of death will be entered into</p> <p>3 that. And that's, you know, potentially</p> <p>4 searchable database back through 2006. And</p> <p>5 that would be the repository of our cause of</p> <p>6 death information.</p> <p>7 Q. I see.</p> <p>8 So -- and when did that coding</p> <p>9 process begin?</p> <p>10 A. I think the office has always</p> <p>11 maintained cause of death information. That</p> <p>12 system was implemented I want to say in</p> <p>13 about -- it was before my time -- 2006, 2007.</p> <p>14 Prior to that our office has</p> <p>15 traditionally really put out a statistical</p> <p>16 report for 75 years. There were other ways of</p> <p>17 tabulating cause of death information, but I</p> <p>18 don't know what they were.</p> <p>19 Q. Can a toxicology report distinguish</p> <p>20 between different kinds of opioids?</p> <p>21 A. Oh, pardon me.</p> <p>22 Yes, it can.</p> <p>23 Q. And is that captured in the --</p> <p>24 A. Well, the --</p> <p>25 Q. -- database that you're --</p>

<p style="text-align: right;">Page 338</p> <p>1 A. -- testing can. I mean the report's</p> <p>2 reporting the testing. But yes, it can.</p> <p>3 Q. Very well.</p> <p>4 And is that information then</p> <p>5 captured and -- and input into the database</p> <p>6 you're describing?</p> <p>7 A. Yes, it is.</p> <p>8 We also have a separate toxicology</p> <p>9 database called Pathways, which was an in-house</p> <p>10 development. And that tracks toxicology data,</p> <p>11 all of it, like whatever's positive.</p> <p>12 The VertiQ system that I mentioned</p> <p>13 would track the relevant drugs as they impact</p> <p>14 cause of death but wouldn't necessarily track</p> <p>15 all of the other drugs that might have been</p> <p>16 detected, say if there was a car crash or</p> <p>17 something else. But we can access that</p> <p>18 information as well.</p> <p>19 Q. When there are multiple factors that</p> <p>20 contribute to a death, do you determine a sort</p> <p>21 of principal or leading cause of death?</p> <p>22 A. Well, on a death certificate there</p> <p>23 are two areas that relate to cause of death.</p> <p>24 So one is called "cause of death," and that</p> <p>25 would be the injury or disease which would be</p>	<p style="text-align: right;">Page 340</p> <p>1 findings, microscopy that we might conduct, any</p> <p>2 of the toxicology information. Potentially</p> <p>3 other ancillary studies might be relevant to</p> <p>4 that as well.</p> <p>5 Q. So is it fair to call it a matter of</p> <p>6 judgment based on the information you had</p> <p>7 available to you?</p> <p>8 A. I -- I think it's ultimately, you</p> <p>9 know -- a medical death cert -- a death</p> <p>10 certificate's a medical opinion as to a, you</p> <p>11 know, cause of death based on the evidence that</p> <p>12 we've reviewed, yeah.</p> <p>13 Q. And coming to that cause of death</p> <p>14 involves clinical and medical judgment, right?</p> <p>15 A. Yes. I mean all of the forensic</p> <p>16 pathologists in the office are medical doctors.</p> <p>17 And they've had training, on top of their</p> <p>18 medical school education, specifically in death</p> <p>19 investigation and writing death certificates.</p> <p>20 We also have a training program in our office</p> <p>21 as well.</p> <p>22 MR. BORANIAN: I'm going to mark</p> <p>23 this large set of sheets as Exhibit No. 5.</p> <p>24 I think the stickers are down there.</p> <p>25 (Deposition Exhibit 5 was marked for</p>
<p style="text-align: right;">Page 339</p> <p>1 the primary disturbance to the person's, you</p> <p>2 know, physiology that results in their death.</p> <p>3 And then we're also asked to make</p> <p>4 contribution -- if there are other significant</p> <p>5 contributions. And these would be other</p> <p>6 conditions -- they're called "other significant</p> <p>7 conditions," which in and of themselves don't</p> <p>8 cause death, but they make death more likely to</p> <p>9 occur.</p> <p>10 And the example I give for visiting</p> <p>11 residents and student is, if you have heart</p> <p>12 disease, atherosclerosis, that can cause your</p> <p>13 death. If you also have diabetes with it,</p> <p>14 which a lot of people do, it doesn't cause</p> <p>15 atherosclerosis, but it accelerates the rate</p> <p>16 that it forms.</p> <p>17 Q. And how do you go about determining</p> <p>18 the -- I think you said principal disturbance?</p> <p>19 What's the process you go through,</p> <p>20 the method yo go through to -- to distinguish</p> <p>21 that from other potential causes of death?</p> <p>22 A. The whole death investigation. And</p> <p>23 then, you know, our clinical judgment, our</p> <p>24 medical judgment. So that we would, you know,</p> <p>25 take into account scene investigation, autopsy</p>	<p style="text-align: right;">Page 341</p> <p>1 identification.)</p> <p>2 BY MR. BORANIAN:</p> <p>3 Q. So, Dr. Gilson -- I need my glasses</p> <p>4 for this one.</p> <p>5 A. I'm taking mine off actually.</p> <p>6 Q. Okay. We have opposite problems,</p> <p>7 you and I.</p> <p>8 So this is the first ten pages of a</p> <p>9 voluminous spreadsheet which was produced under</p> <p>10 the Bates number Cuyahoga 000099975. And the</p> <p>11 title of this set of data is 2000 -- I'm</p> <p>12 sorry -- "CCMEO 2006 to 2017 Overdose Data."</p> <p>13 And I have the whole spreadsheet on</p> <p>14 a flash drive. But I printed the first ten</p> <p>15 pages because I really have just general</p> <p>16 questions about these data and what the various</p> <p>17 columns are and so forth.</p> <p>18 First of all, can you tell me what</p> <p>19 these data represent?</p> <p>20 Do you know what this is?</p> <p>21 A. It's a -- a spreadsheet -- and I'm</p> <p>22 looking at, you know, what's on this, which</p> <p>23 would be case number. And our case numbering</p> <p>24 system at this point on the sheets you're</p> <p>25 showing me was just sequential. It was a</p>

<p style="text-align: right;">Page 342</p> <p>1 running number. That changed sometime before I  2 got there, a few years before I got there. So  3 this sequential numbering would have been in  4 place in 2006, 2007.  5 It talks about -- some things I --  6 I'm not sure what they are, the coded mode.  7 But I think, if you go over that first solid  8 block with multiple, cause of death would be  9 furnished there.  10 And then we would have  11 information -- as I'm looking at the top -- of,  12 you know, city, state, ZIP code.  13 And we make a distinction between --  14 this is all going to be pulled off of the death  15 certificate -- residence of the decedent and  16 incidence, if there's a injury. So we would  17 actually distinguish those two.  18 And I'm looking just to see if there  19 is a -- I think these data over here in the  20 last column where it sort of looks cut off and  21 says "V City" and "Death County," that might --  22 I -- I -- I -- these are truncated, so I'd have  23 to say it might be the data from the incident.  24 And then there's demographic  25 information here --</p>	<p style="text-align: right;">Page 344</p> <p>1 Q. Do you know when or -- and why this  2 particular set of data was extracted?  3 A. No.  4 Q. Do you know who maintains the VertiQ  5 database?  6 A. We have an IT department who are  7 responsible for the office information  8 technology needs.  9 Data being entered into this is from  10 the general office, which would be clerks in my  11 office who would be entering, you know, time of  12 death, cause of death, et cetera. And that  13 would be pulled out and put into this.  14 So the VertiQ database itself is an  15 IT function. And that's managed by them and  16 maintained by them. But the information that  17 populates this would be more people on my  18 staff.  19 Q. So the Cause of Death column, which  20 you previously pointed out to me, is that  21 where -- is that where this file would capture  22 opioid-related deaths?  23 A. Yes.  24 Q. Is that information recorded  25 anywhere else in this file?</p>
<p style="text-align: right;">Page 343</p> <p>1 Q. Okay.  2 A. -- as well. So race; ethnicity,  3 which is Hispanic, not Hispanic; gender; age;  4 marital status.  5 And we would also look at occupation  6 and other things about the time of death and  7 who the assigned doctor was.  8 Q. So this was produced to us as a  9 giant spreadsheet.  10 But do you know from -- from where  11 the data came?  12 Was it run from one of your  13 databases?  14 A. Yes, it was.  15 Q. And which database was it run from?  16 A. There was an attempt to enter all of  17 the data into the VertiQ database. And this  18 looks like a sleet sheet I've seen from the  19 VertiQ database. But --  20 Q. Okay.  21 A. -- the database -- as I say, I don't  22 remember exactly when it started. It might  23 have been before 2006, and that data may have  24 been entered into the database from some --  25 something separate. I don't know for sure.</p>	<p style="text-align: right;">Page 345</p> <p>1 A. The clerks do this coding mode, and  2 I -- I don't do that. So I don't know what  3 that is. But I don't see any other place where  4 I would see what drugs would have been included  5 here.  6 Q. Would --  7 A. It would be in that cause of  8 death --  9 Q. Would Mr. Shannon --  10 A. -- section.  11 Q. I'm sorry. I thought you were  12 finished, Doctor.  13 Would Mr. Shannon know more about  14 it?  15 A. I don't know for sure. The clerks  16 are under him, but I don't know to what extent  17 he would know the coding system any better than  18 I.  19 Q. So which column captures the type of  20 drug that is related to a drug overdose?  21 A. That would be in the Cause of Death  22 column. Unfortunately, these have been cut  23 off, so a lot of them just say "intoxication by  24 the."  25 Q. But --</p>

<p style="text-align: right;">Page 346</p> <p>1 A. Yes. That would be the drugs coming 2 after that. 3 Q. Let me ask you about two of the 4 columns further over to the right. There's one 5 which is called "RC App Manner." 6 A. Okay. 7 Q. Do you know what that means? 8 A. I know what manner of death means. 9 I know, when cases get called into the office, 10 they'll be given kind of a triage as to what 11 manner they might be. And I don't know if this 12 is actually extracted from the death 13 certificate database or from at that database. 14 But seeing things here like 15 "unknown" make me think it's from the call-in 16 database. Because we don't have a checkbox in 17 the death certificate for unknown. We have an 18 undetermined but not an unknown. 19 Q. So if I understand correctly, if the 20 -- if -- if these -- if this information were 21 taken from a death certificate, "unknown" would 22 not appear, correct? 23 A. That would be a very unusual term 24 for death certificate, just because the 25 manner -- if we can't make a decision, there is</p>	<p style="text-align: right;">Page 348</p> <p>1 A. There's a lot of information here. 2 I'm just looking for things that I know are on 3 a death certificate that don't show up here. 4 And one of the ones I know of is 5 veteran status. So this at least doesn't have 6 that piece of information. 7 But in filling out a death 8 certificate, part of it is filled out by our 9 office, and part of it is filled out by the 10 funeral home. So there's information the 11 funeral home would collect that maybe doesn't 12 get reflected here, like veteran status. 13 Q. Okay. And how about vice versa; is 14 there information here that's not on the death 15 certificate? 16 A. Again, I -- I -- I don't know if 17 this manner was populated with death 18 certificate data. And I'm not sure what 19 "unknown" means. 20 The other designations there -- 21 natural, suicide, et cetera -- those are 22 legitimate causes of -- or pardon me -- manners 23 of death. So I don't know if that actually was 24 taken from the death certificate and "unknown" 25 is -- is some default that was used to generate</p>
<p style="text-align: right;">Page 347</p> <p>1 an option. But it's undetermined, not unknown. 2 Q. And let's go to the column just to 3 the left of Cc App Manner. It says "RC NIG," 4 N-I-G, "Occurred." 5 What does that mean? 6 A. Whenever you certify a death in 7 other than natural causes, there's a need for 8 an explanation how the injury occurred. And 9 there are various boxes on a death certificate 10 around that. 11 And they would be, you know, saying 12 things like when did the injury occur, where 13 did it occur. And one of them would be how did 14 the injury occur. And that's what you're 15 seeing there. 16 Q. So I understand, Doctor, that 17 information is keyed into this file or this 18 database from the death certificates. 19 Is all the information from the 20 death certificates keyed into this database? 21 A. I don't know. 22 Q. In other words, would we have to 23 actually look at additional copies of death 24 certificates and other paper to get a more 25 complete picture?</p>	<p style="text-align: right;">Page 349</p> <p>1 the spreadsheet. 2 Q. If you were to look at a death 3 certificate and -- and look at the cause of 4 death, for example, and look at this file and 5 see a discrepancy, which would you rely on, the 6 death certificate or this file? 7 A. Death certificate. 8 MR. BORANIAN: You can put that 9 aside now, Doctor. 10 We'll mark this the next. 11 (Deposition Exhibit 6 was marked for 12 identification.) 13 THE WITNESS: Thank you. 14 BY MR. BORANIAN: 15 Q. So, Dr. Gilson, I'll tell you off 16 the bat I think there's an error in this 17 document. Okay? It's -- 18 A. Okay. 19 Q. -- at -- first of all, what is the 20 document I've marked as Exhibit 6? 21 A. You know, these are monthly reports 22 that we put out for dissemination. They go 23 primarily through our task force. And they're 24 summaries of mortality data and, you know, 25 things that we're seeing in the office.</p>

<p style="text-align: right;">Page 350</p> <p>1 They're -- they change some over 2 time, but there are certain things that show up 3 in all of them and then other thing that are 4 updated on a monthly basis. 5 Q. So the document is -- is titled 6 "Cuyahoga County Medical Examiner's Office, 7 Heroin/Fentanyl/Cocaine Related Deaths in 8 Cuyahoga County," right? 9 A. Yes. 10 Q. And it says "2018 December Update," 11 correct? 12 A. Right. And we would issue it on the 13 11th of January 2018. 14 Oh, 2018 December update, is that 15 that typo? 16 Q. That's -- that's the error, Doctor. 17 A. Okay. Yeah. We couldn't be issuing 18 the December update on January of 2018. 19 Q. So I'll represent to you that, when 20 you go on the web site -- and we just did it a 21 few minutes ago -- the link says "January 11, 22 2019." 23 A. Oh, it does. Okay. 24 Q. Yes. 25 A. So we did fix it.</p>	<p style="text-align: right;">Page 352</p> <p>1 conference. The last column on the first page 2 with the table, that was what we were focusing 3 on primarily at the press conference. Some of 4 these other things are other things that we 5 traditionally include but I don't think we 6 mentioned at the press conference itself. 7 Q. Take a look at Page 2 of Exhibit 6. 8 A. I'm sorry. Are we looking at this 9 one? 10 Q. That's right. 11 A. That one. Okay. Yeah. Sure. 12 Q. So if you look at the top line, 13 which is "Total Drug Overdose Deaths," 2017 was 14 727; and 2018, at least as you understood on 15 January 11, 2019, was 560, right? 16 A. That's our projection. There's an 17 inherent lag in deaths and then being 18 certified. Have to wait for toxicology 19 testing. 20 So there are standards for our 21 accreditation. We have to maintain 90 percent 22 of our toxicology testing being completed 23 within 90 days. So this number may change as 24 more of that comes in. 25 But based on what we had certified</p>
<p style="text-align: right;">Page 351</p> <p>1 Q. Well, the -- but when you get the 2 document, it still says "2018." 3 Here's the question: Doctor, what 4 is the correct date for this report? 5 A. 2019. 6 Q. Very well. 7 A. Do you want me to fix it on -- 8 Q. And -- 9 A. -- the exhibit or... 10 Q. No. 11 A. Okay. 12 Q. 2019 January 11, that's two Fridays 13 ago, right? 14 A. Yes. 15 Q. And that's the date of the press 16 conference that you've referred to earlier, 17 true? 18 A. That's right. Yes, it was. 19 Q. So did you present these data at 20 that press conference? 21 A. We were presenting our data. And 22 this is a summary of that. So I -- I'd have to 23 say -- if I could just take a look. 24 I don't know if we presented 25 everything in this document at that press</p>	<p style="text-align: right;">Page 353</p> <p>1 up until that point -- and I think there's a 2 asterisk that goes through cases we had ruled 3 through September 2018. We reserve the right 4 the change that. It may change. 5 Q. Sure. 6 But those numbers, 727 and 560, 7 those are the same numbers you testified to 8 earlier, right? 9 A. These were the numbers that we at 10 the -- 11 Q. So this -- 12 A. -- press conference. 13 Q. Yeah. 14 So this document confirms what you 15 told us earlier, true? 16 A. I don't remember testifying to that. 17 But that's right. 727 was 2017, and 560 was 18 the number that we mentioned as our projection 19 for 2018 as of that date. 20 Q. So if you look at the line that's 21 labeled "All Opioids Not Including Fentanyl 22 After 2013" -- see that? 23 A. Yes. Yes. 24 Q. In 2011, it peaks at 113 cases, 25 right?</p>

<p style="text-align: right;">Page 354</p> <p>1 A. That's right.</p> <p>2 Q. So after 2011, the increases that</p> <p>3 we're seeing in total deaths is driven</p> <p>4 principally by heroin, fentanyl and cocaine; is</p> <p>5 that true?</p> <p>6 MR. BADALA: Objection to form.</p> <p>7 THE WITNESS: I would even back away</p> <p>8 from the cocaine. Because, as I mentioned</p> <p>9 earlier, when we tease out cocaine as an</p> <p>10 independent contributor, it isn't rising in</p> <p>11 this time frame, 2016, 2017. It's being pulled</p> <p>12 up by fentanyl, as is heroin.</p> <p>13 Heroin deaths are dropping unless</p> <p>14 they're associated with fentanyl over that time</p> <p>15 frame. They continued their downward trend</p> <p>16 after 2015 unless fentanyl was present.</p> <p>17 BY MR. BORANIAN:</p> <p>18 Q. And if a drug is detected in</p> <p>19 connection with a death, let's say both cocaine</p> <p>20 and fentanyl, that single death is recorded</p> <p>21 both in the cocaine numbers and in the fentanyl</p> <p>22 numbers, right?</p> <p>23 A. It's kind of a double dip. You'll</p> <p>24 see it twice, which is why, if you add all of</p> <p>25 these numbers together, they exceed the total</p>	<p style="text-align: right;">Page 356</p> <p>1 method that you have used to make this chart</p> <p>2 has not changed, true?</p> <p>3 A. No, it has not.</p> <p>4 Q. Okay. Take a look at the fifth page</p> <p>5 of this same chart. It looks like this. This</p> <p>6 page is entitled "Cuyahoga County</p> <p>7 Heroin/Fentanyl Related Overdose Deaths 2013 to</p> <p>8 2018, Projected Death with DAWN Saves As</p> <p>9 Overdose Deaths."</p> <p>10 Is that what it says?</p> <p>11 A. Yes, it does.</p> <p>12 Q. So explain this chart to me, Doctor.</p> <p>13 What does this represent?</p> <p>14 A. This would be a series of data</p> <p>15 points going back to 2013. The first graph</p> <p>16 that we're seeing there is the graph for heroin</p> <p>17 deaths. And the -- I think the stripped one</p> <p>18 with the strips rising up to the left is heroin</p> <p>19 plus fentanyl.</p> <p>20 So in 2013 we actually didn't track</p> <p>21 this. We -- this was added subsequent to that.</p> <p>22 So this is one of those things we repeat</p> <p>23 multiple times. We started to add heroin and</p> <p>24 fentanyl as fentanyl became a bigger player in</p> <p>25 our mortality.</p>
<p style="text-align: right;">Page 355</p> <p>1 number of --</p> <p>2 Q. Right.</p> <p>3 A. -- overdoses.</p> <p>4 Q. Yep?</p> <p>5 A. Because we have a lot of mixtures.</p> <p>6 In fact, I'd say, the last time we generated</p> <p>7 data, the majority of our drug overdoses</p> <p>8 involved mixtures.</p> <p>9 Q. And I think you told us that</p> <p>10 earlier.</p> <p>11 I just wanted to confirm that,</p> <p>12 whenever we see this chart, this most common</p> <p>13 drugs chart, that is true, correct?</p> <p>14 A. The data here is true?</p> <p>15 Q. The fact that you count multiple</p> <p>16 drug deaths in multiple times.</p> <p>17 A. Oh, oh. That is true.</p> <p>18 Q. That's -- so that's a --</p> <p>19 A. Yeah. I'm sorry. I didn't</p> <p>20 understand your -- I thought you said are the</p> <p>21 numbers true. And I'm like yeah.</p> <p>22 Q. No. We can get to that --</p> <p>23 A. To the best of my knowledge.</p> <p>24 Q. -- later.</p> <p>25 But I'm just confirming that the</p>	<p style="text-align: right;">Page 357</p> <p>1 And then, based on the information</p> <p>2 that we received from Project DAWN, the deaths</p> <p>3 avoided with Naloxone, the antidote drug for an</p> <p>4 opioid overdose, we add those to generate the</p> <p>5 third column for any given year.</p> <p>6 So what we say is here is the number</p> <p>7 of heroin deaths, here is the number of heroin</p> <p>8 and fentanyl deaths, and then here's the number</p> <p>9 of opioid deaths we would have had if we didn't</p> <p>10 have Project DAWN.</p> <p>11 There was a save with the Project</p> <p>12 DAWN kit. And that's data we get from Project</p> <p>13 DAWN.</p> <p>14 Q. Okay. So the assumption is then</p> <p>15 that, without the intervention through DAWN,</p> <p>16 that person would have become an overdose</p> <p>17 death?</p> <p>18 A. Yes. That's kind of I think what</p> <p>19 Project DAWN does, is it saves people coming to</p> <p>20 our office.</p> <p>21 Q. So if you look at 2017 column</p> <p>22 "Without DAWN" --</p> <p>23 A. Yes.</p> <p>24 Q. -- that total is 1,439, right?</p> <p>25 A. That's right.</p>

<p style="text-align: right;">Page 358</p> <p>1 Q. And that also drops to a projected 2 1,050 in 2018, right? 3 A. Yes, it does. 4 Q. What database is this report run 5 from? 6 A. This report, the page we're -- 7 Q. Yeah. 8 A. -- on right now. 9 Q. Well, we can start with that. 10 Where do you get the data? 11 A. The first two columns, the heroin 12 and fentanyl data, would be coming out of the 13 medical examiner's office. The Project DAWN 14 dota [sic] -- data, that we would obtain from 15 Project DAWN. And I don't know what database 16 they use to generate that. 17 Q. What database within the Medical 18 Examiner's Office do you use to access these 19 data? 20 A. Our web site. I -- I'm not sure I 21 understand your question. 22 Q. Well, for example, when you're 23 tabulating 542 fentanyl deaths for 2017, 24 where'd you get that number? 25 A. Oh, from the death -- cause of death</p>	<p style="text-align: right;">Page 360</p> <p>1 distinction. 2 But the data for these things, 2006, 3 2007, may not come from the VertiQ system. I 4 don't know for certain. But they do come from 5 the coroner's office data -- 6 Q. Okay. 7 A. -- that we have. 8 Q. But since then, the VertiQ system is 9 the system in which you keep these data, true? 10 A. Absolutely, yes. 11 Q. So if you took a look at exhibits 5 12 and 6 together, do they have any relation to 13 one another? 14 For example, if we pick a number out 15 of the -- the table in Exhibit 6, could we go 16 through the data reflected in Exhibit 5, the 17 big giant table, and count the number of deaths 18 and sort of cross-reference? 19 A. This data comes from the same system 20 as I believe this was generated from. Again, 21 these data back to '06, '07, I'm not as certain 22 whether they were back entered or not. 23 But I can say confidently 2011 data 24 forward, we would be able to identify a data 25 point here and run it through the VertiQ system</p>
<p style="text-align: right;">Page 359</p> <p>1 data that's entered into our office management 2 system, the VertiQ system that I mentioned. 3 Q. Okay. Do you also access data from 4 VertiQ to generate the most common drug chart 5 that we see on the second page? 6 A. Yes. I -- I can say with 7 certainty -- 2011 forward, that's my tenure in 8 the office. That would certainly be true. 9 And as I say, I don't know exactly 10 when we got the VertiQ system running in 11 Cuyahoga County. So I don't want to be as 12 dogmatic about the left side of the curve, when 13 that starts to go into VertiQ. It may; it may 14 not. I just don't know. 15 Q. So for each of these slides, there's 16 a source listed at the bottom. 17 A. Right. 18 Q. So each -- each time that it says 19 the Cuyahoga County Medical Examiner's Office, 20 does that mean that these data are coming from 21 the VertiQ system? 22 A. As I said, I can speak to my tenure 23 more clearly. They would be coming from -- at 24 the time before 2011 it was the coroner's 25 office. So I think that's a kind of academic</p>	<p style="text-align: right;">Page 361</p> <p>1 to provide supporting documentation. 2 And I would say, you know, given 3 what I have seen from the coroner's office, 4 they were pretty thorough in their data 5 acquisition as well. But I don't want to speak 6 to things I don't know about for certain. 7 Q. Do you have any projections 8 regarding future deaths other than what we're 9 seeing here? 10 MR. BADALA: Objection to form. 11 THE WITNESS: We have started to 12 look at 2019. But obviously we haven't 13 finished the first month of the year. So we 14 can't make a projection yet on that. 15 I can say anecdotally that 2019 16 actually has been a bad year so far. Not 560 17 but rising up again. 18 BY MR. BORANIAN: 19 Q. Let me ask you about this lawsuit a 20 little bit. 21 Did you play any role in deciding 22 which defendants would be named in this 23 lawsuit? 24 A. No, sir. 25 Q. Have you ever been asked to quantify</p>

<p style="text-align: right;">Page 362</p> <p>1 the cost that your department has had to bear</p> <p>2 as it relates to opioid abuse?</p> <p>3 A. We did an analysis of some of the</p> <p>4 costs. I don't think it was exhaustive. But</p> <p>5 we were specifically looking at additional</p> <p>6 personnel and additional instrumentation and</p> <p>7 those costs. That was prepared. But the</p> <p>8 entire burden to the office, no, we haven't</p> <p>9 prepared that.</p> <p>10 Q. And the analysis you've just</p> <p>11 referred to, who prepared that?</p> <p>12 A. I believe it was Hugh Shannon.</p> <p>13 Q. Now, I'll represent to you that the</p> <p>14 county has sued, as identified in its</p> <p>15 complaint, three sets of defendants. We have</p> <p>16 the manufacturing or marketing defendants; we</p> <p>17 have the distribution defendants; and we have</p> <p>18 the retail pharmacy defendants.</p> <p>19 I want to ask you a few questions</p> <p>20 about the distributors.</p> <p>21 A. Sure.</p> <p>22 Q. Do you know which distributors were</p> <p>23 sued?</p> <p>24 A. I don't remember the names. I've</p> <p>25 seen it, but I don't remember them right now,</p>	<p style="text-align: right;">Page 364</p> <p>1 A. I don't remember. If I did, it</p> <p>2 wasn't really any more than I knew about</p> <p>3 Cardinal Health or McKesson.</p> <p>4 Q. Are you familiar with the</p> <p>5 regulations imposed on distributors by the Ohio</p> <p>6 Board of Health?</p> <p>7 A. No, I'm not.</p> <p>8 Q. Are you aware of regulations imposed</p> <p>9 on distributors by the Ohio Board of Pharmacy?</p> <p>10 A. I'm sorry. I was -- lost your</p> <p>11 question.</p> <p>12 Q. Sure. I'll repeat that.</p> <p>13 Are you --</p> <p>14 A. Oh, thank you.</p> <p>15 Q. Are you familiar with any</p> <p>16 regulations imposed on prescription drug</p> <p>17 distributors by the Ohio Board of Pharmacy?</p> <p>18 A. I thought they were required to use</p> <p>19 the OARRS system or enter data in the OARRS</p> <p>20 system. But again, I don't know that for</p> <p>21 certain either. Beyond that, no.</p> <p>22 Q. Are --</p> <p>23 A. I'd have to say I don't know</p> <p>24 anything beyond that.</p> <p>25 Q. Are you familiar with any other</p>
<p style="text-align: right;">Page 363</p> <p>1 all of them.</p> <p>2 Q. Were --</p> <p>3 A. McKesson, Cardinal and AmeriBergen</p> <p>4 [sic] I think was the other. I don't know if</p> <p>5 that's exhaustive or not. But I think those</p> <p>6 were the distributors that I'm familiar with.</p> <p>7 Q. And before getting involved in this</p> <p>8 litigation, had you ever heard of McKesson?</p> <p>9 A. I don't know.</p> <p>10 Q. How about same question for Cardinal</p> <p>11 Health?</p> <p>12 A. I think we drive by Cardinal Health</p> <p>13 when I go to visit my in-laws. So I think I</p> <p>14 saw it, you know. But I -- I really don't know</p> <p>15 much about them other than that.</p> <p>16 Q. So no prior knowledge that Cardinal</p> <p>17 Health was a drug distributor?</p> <p>18 A. No.</p> <p>19 Q. I should say a prescription drug</p> <p>20 distributor or a healthcare product --</p> <p>21 A. Prescription drug distributor. Yes,</p> <p>22 sir.</p> <p>23 Q. And my client, AmerisourceBergen,</p> <p>24 have you heard of that -- had you heard of that</p> <p>25 before getting involved in this litigation?</p>	<p style="text-align: right;">Page 365</p> <p>1 state regulation -- Ohio State regulation of</p> <p>2 drug distributors?</p> <p>3 A. Not myself, no.</p> <p>4 Q. How about federal regulations of</p> <p>5 drug distributors?</p> <p>6 A. Again, I -- I have some</p> <p>7 understanding of DEA requirements about</p> <p>8 distribution, but they're very rudimentary.</p> <p>9 Q. Have you ever had any communications</p> <p>10 with any representative of a distributor other</p> <p>11 than myself?</p> <p>12 A. No.</p> <p>13 Q. Have you ever reached out to any</p> <p>14 prescription drug distributor for any</p> <p>15 assistance in any -- the analysis you're doing</p> <p>16 or any other efforts you've made in connection</p> <p>17 with opioid abuse?</p> <p>18 A. You know, there was a group that</p> <p>19 came to our office, Leaders Quest, and they</p> <p>20 represented different people in the</p> <p>21 pharmaceutical industry. They reached out to</p> <p>22 us. But I don't remember anything more.</p> <p>23 It never jelled. They kept wanting</p> <p>24 to talk to us individually. And we wanted to</p> <p>25 have our folks meet as a group.</p>

<p style="text-align: right;">Page 366</p> <p>1 And that's really the extent I think</p> <p>2 of anything I can think of right now about</p> <p>3 contact with -- might have been drug</p> <p>4 manufacturers, drug distributors. I don't</p> <p>5 remember. But it was kind of a consortium, as</p> <p>6 it was represented to us, of pharmaceutical</p> <p>7 industry.</p> <p>8 Q. Did they reach out to you or you</p> <p>9 reach out to them?</p> <p>10 A. They reached out to Cuyahoga County.</p> <p>11 Q. And do you actually recall a drug</p> <p>12 distributor being among that group?</p> <p>13 A. I don't. You know, there were a lot</p> <p>14 of people from the pharmaceutical industry I</p> <p>15 believe represented there. But I don't</p> <p>16 remember if it was specific distributor.</p> <p>17 Q. Do drug distributors manufacturer</p> <p>18 prescription drugs?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 THE WITNESS: To the best of my</p> <p>21 knowledge, no.</p> <p>22 BY MR. BORANIAN:</p> <p>23 Q. Do drug distributors ever interact</p> <p>24 with patients or physicians?</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">Page 368</p> <p>1 So I'd have to say I don't know.</p> <p>2 Q. And do you know if drug distributors</p> <p>3 play any role in the DEA's setting of quotas</p> <p>4 for the manufacture of opioids, of controlled</p> <p>5 substances?</p> <p>6 A. I don't know what goes into that DEA</p> <p>7 practice. So I -- I don't know.</p> <p>8 Q. Does a drug distributor know how</p> <p>9 much medication a pharmacy acquires from other</p> <p>10 drug distributors?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 Steve, to be clear, when you say</p> <p>13 "distributors," I know in the complaint we have</p> <p>14 pharmacies that are distributors.</p> <p>15 Which one are you talking about now?</p> <p>16 MR. BORANIAN: I'm referring to</p> <p>17 wholesale distributors.</p> <p>18 MR. BADALA: Okay. Just --</p> <p>19 MR. BORANIAN: When I say</p> <p>20 "distributor," I mean wholesale distributor.</p> <p>21 MR. BADALA: All right. Just want</p> <p>22 to clear the record.</p> <p>23 MR. BORANIAN: I appreciate that.</p> <p>24 THE WITNESS: I don't know that I</p> <p>25 understand the distinction.</p>
<p style="text-align: right;">Page 367</p> <p>1 Q. Do --</p> <p>2 A. I would hope they weren't</p> <p>3 interacting with patients. But physicians, I</p> <p>4 don't know if they do or not.</p> <p>5 Q. Either way, you don't know, right?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you know if drug distributors do</p> <p>8 any marketing of prescription opioids?</p> <p>9 A. I'm not aware of it. I don't know.</p> <p>10 Q. Do you know if drug distributors</p> <p>11 participate at all in preparing the warnings</p> <p>12 that come in the package insert with</p> <p>13 prescription drugs?</p> <p>14 A. I don't know if they do or not.</p> <p>15 Q. Do drug distributors actually ever</p> <p>16 write or fill prescriptions?</p> <p>17 A. Unless they're physicians, I would</p> <p>18 hope not. But I don't know if they fill</p> <p>19 prescriptions if there's distribution at that</p> <p>20 micro level. I don't know that. But writing</p> <p>21 prescriptions, no.</p> <p>22 Q. Do you know if drug distributors</p> <p>23 contribute to or influence in any way drug</p> <p>24 formularies in healthcare institutions?</p> <p>25 A. I don't have experience with that.</p>	<p style="text-align: right;">Page 369</p> <p>1 BY MR. BORANIAN:</p> <p>2 Q. Well, is -- can a wholesale</p> <p>3 distributor -- does a wholesale distributor</p> <p>4 have any way of knowing how much medication a</p> <p>5 pharmacy bought from another wholesale</p> <p>6 distributor?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 THE WITNESS: I know of data that</p> <p>9 the Ohio Department of Health shared on their</p> <p>10 web site about sort of number of doses for</p> <p>11 specific drugs. I don't know if that's</p> <p>12 something that, you know, the distributor would</p> <p>13 need to be aware of.</p> <p>14 But there's public information on</p> <p>15 some of that, as to how many solid doses of</p> <p>16 opiates -- opioids -- I'm thinking of a graph I</p> <p>17 remember seeing -- in Ohio and that it was</p> <p>18 rising over a period of time.</p> <p>19 BY MR. BORANIAN:</p> <p>20 Q. And that's aggregated data, right?</p> <p>21 A. It's data for the State of Ohio, not</p> <p>22 specifically Cuyahoga County.</p> <p>23 Q. Okay.</p> <p>24 A. I don't know if --</p> <p>25 Q. But it doesn't disclose who sold</p>

<p style="text-align: right;">Page 370</p> <p>1 those doses, does it?</p> <p>2 A. Oh, no. To your point, I guess no,</p> <p>3 it doesn't disclose the individual distributors</p> <p>4 and how that's broken down by distributor.</p> <p>5 Q. Does a dug [sic] -- does a drug</p> <p>6 distributor know the identity of patients to</p> <p>7 whom drugs were prescribed?</p> <p>8 MR. BADALA: Objection.</p> <p>9 Again, wholesale distributor?</p> <p>10 MR. BORANIAN: Yes.</p> <p>11 THE WITNESS: I don't know.</p> <p>12 BY MR. BORANIAN:</p> <p>13 Q. Does a distributor know what a</p> <p>14 patient's diagnosis is or what the patient</p> <p>15 actually does with his or her medication?</p> <p>16 A. I don't have information on that.</p> <p>17 Q. Does a drug distributor have any</p> <p>18 information about other medications a patient</p> <p>19 might be taking or a patient's history of</p> <p>20 addiction?</p> <p>21 A. I would not expect that, but I don't</p> <p>22 know.</p> <p>23 Q. In your analysis over the years, Dr.</p> <p>24 Gilson, have you ever linked a specific order</p> <p>25 of controlled substances shipped by any of the</p>	<p style="text-align: right;">Page 372</p> <p>1 where part of that shipment was diverted?</p> <p>2 A. Oh, part of the shipment itself?</p> <p>3 Q. Yeah.</p> <p>4 A. I'm not aware of that.</p> <p>5 Again, the distributors, I -- I</p> <p>6 think some of the pharmacies -- you know, there</p> <p>7 were robberies of pharmacies. And those drugs</p> <p>8 would have obviously been diverted.</p> <p>9 Q. Have you --</p> <p>10 A. And some of those could be pharmacy</p> <p>11 distributors. But I don't know a specific</p> <p>12 wholesale distributor. I've never heard of a</p> <p>13 robbery like that. I -- I just don't know.</p> <p>14 Q. One last question. If you go back</p> <p>15 to the -- the very latest most common drugs</p> <p>16 chart.</p> <p>17 A. Yeah.</p> <p>18 Q. This -- this confirms what you told</p> <p>19 us before, that prescription opioid-related</p> <p>20 deaths plateaued starting at about 2010, right?</p> <p>21 MR. BADALA: Look on Exhibit 1 or 6?</p> <p>22 Because there's two that have the same page.</p> <p>23 MR. BORANIAN: We're in Exhibit 6.</p> <p>24 MR. BADALA: Thank you.</p> <p>25 MR. BORANIAN: The -- the latest</p>
<p style="text-align: right;">Page 371</p> <p>1 distributor defendants in this case and any</p> <p>2 individual in the county who overdosed on</p> <p>3 drugs?</p> <p>4 A. I don't remember ever doing that.</p> <p>5 Q. Do you know of any instance where --</p> <p>6 well, strike that.</p> <p>7 Can you identify any shipment of</p> <p>8 prescription opioids by any distributor</p> <p>9 defendant where part of the shipment was</p> <p>10 diverted outside the closed supply chain?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 THE WITNESS: I mean there were</p> <p>13 diversion of drugs going on, you know, from the</p> <p>14 pill mills, from the pharmacy shoppers, the</p> <p>15 data shoppers -- the doctor shoppers, I mean.</p> <p>16 Diversion of pills out of, you know, medicine</p> <p>17 cabinets and things like that.</p> <p>18 I don't know, you know, to what</p> <p>19 extent they were ever investigated back to the</p> <p>20 distributor level, but --</p> <p>21 BY MR. BORANIAN:</p> <p>22 Q. Well, in your investigation and in</p> <p>23 your analysis over the last seven, eight, nine</p> <p>24 years, have you identified any shipment of</p> <p>25 prescription opioids, any particular shipment,</p>	<p style="text-align: right;">Page 373</p> <p>1 one.</p> <p>2 MR. BADALA: Okay.</p> <p>3 MR. BORANIAN: Yeah.</p> <p>4 THE WITNESS: We didn't continue to</p> <p>5 see a rise in a significant way beyond 2011.</p> <p>6 It seemed to have plateaued beyond that.</p> <p>7 MR. BORANIAN: I think that's all I</p> <p>8 have, Doctor. Thank you.</p> <p>9 THE WITNESS: Thank you.</p> <p>10 THE VIDEOGRAPHER: We are going off</p> <p>11 the record.</p> <p>12 This is the end of Media Unit No. 6.</p> <p>13 The time is 5:30.</p> <p>14 (A short recess was taken.)</p> <p>15 MR. CARTER:</p> <p>16 THE VIDEOGRAPHER: We are going back</p> <p>17 on the record.</p> <p>18 This is the beginning of Media Unit</p> <p>19 No. 7.</p> <p>20 The time is 5:42.</p> <p>21 You may proceed, Counsel.</p> <p>22 EXAMINATION BY COUNSEL FOR DEFENDANT</p> <p>23 WALMART, INC.</p> <p>24 BY MR. CARTER:</p> <p>25 Q. Good afternoon, Dr. Gilson.</p>

<p style="text-align: right;">Page 374</p> <p>1 A. Hi, Mr. Martin.</p> <p>2 Q. Mr. Carter. But that's okay.</p> <p>3 A. Carter.</p> <p>4 Q. We only met once. So no problem.</p> <p>5 I've got some --</p> <p>6 A. Thank you.</p> <p>7 Q. -- questions for you.</p> <p>8 A. Yeah.</p> <p>9 Q. Because it's the end of the day, I'm</p> <p>10 going to kind of jump around, be as efficient</p> <p>11 as possible.</p> <p>12 A. Sure.</p> <p>13 Q. If I lose you at any point, will you</p> <p>14 let me know?</p> <p>15 A. Sure. Sure.</p> <p>16 Q. If you don't understand one of my</p> <p>17 questions, will you let me know?</p> <p>18 A. No. Thank you for that offer.</p> <p>19 Q. Are you -- have you ever been a</p> <p>20 pharmacist?</p> <p>21 A. No, I have not.</p> <p>22 Q. Ever practiced in that area?</p> <p>23 A. No.</p> <p>24 Q. Okay. You were asked some questions</p> <p>25 about addiction.</p>	<p style="text-align: right;">Page 376</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 THE WITNESS: I don't know, you</p> <p>3 know, what research would be done in that. I'm</p> <p>4 not aware of any one.</p> <p>5 BY MR. CARTER:</p> <p>6 Q. Okay. And in the case of a medical</p> <p>7 diagnosis of addiction, do you agree that that</p> <p>8 diagnosis is something that you can't assume</p> <p>9 just from data points in terms of their</p> <p>10 substance use history, that you can't just see</p> <p>11 that someone used a substance and assume an</p> <p>12 addiction or a diagnosis of abuse, correct?</p> <p>13 A. From my investigation?</p> <p>14 Q. Yes.</p> <p>15 A. Again, you know, I think, if we</p> <p>16 think of an addiction as something where a</p> <p>17 person continues to use drugs in spite of, you</p> <p>18 know, consequences, social consequences, it</p> <p>19 certainly suggests itself if somebody dies of</p> <p>20 an overdose, and they've been incarcerated for</p> <p>21 drug charges.</p> <p>22 But I -- as I say, I don't make the</p> <p>23 diagnosis. But it wouldn't say that -- I would</p> <p>24 consider that person, you know -- I would</p> <p>25 probably think of that person as having some</p>
<p style="text-align: right;">Page 375</p> <p>1 You've never diagnosed addiction in</p> <p>2 the context of your work as a medical examiner,</p> <p>3 correct?</p> <p>4 A. No, not as a medical examiner. As I</p> <p>5 say, it may appear on a medical examiner</p> <p>6 report, but I am relying on that, as, you know,</p> <p>7 history of substance abuse, on somebody else</p> <p>8 making that diagnosis.</p> <p>9 Q. So if there is a reference to</p> <p>10 substance abuse or an addiction or any</p> <p>11 characterization of a person's medical</p> <p>12 condition during life, that's something where</p> <p>13 you've relied on other medical professionals to</p> <p>14 make those primary diagnoses, correct?</p> <p>15 A. Right. I am familiar, you know,</p> <p>16 just because my medical training, in a general</p> <p>17 way with some of those terms. But I don't make</p> <p>18 those diagnoses myself --</p> <p>19 Q. Okay.</p> <p>20 A. -- in the occurs of my work.</p> <p>21 Q. And there's no posthumous test for</p> <p>22 addiction, is there?</p> <p>23 A. No, there's not.</p> <p>24 Q. And likewise, there's no posthumous</p> <p>25 test for tolerance, is there?</p>	<p style="text-align: right;">Page 377</p> <p>1 issue around substance abuse.</p> <p>2 Q. But based on the data available to</p> <p>3 you, if there's not a diagnosis of substance</p> <p>4 abuse or addiction in the file, you do not have</p> <p>5 enough information at your stage of the</p> <p>6 investigation where you feel comfortable</p> <p>7 offering a medical opinion more likely than not</p> <p>8 medically that an individual was addicted,</p> <p>9 fair?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 THE WITNESS: We do not make that</p> <p>12 diagnosis. At the end of every autopsy report,</p> <p>13 we have a list of diagnoses. And we don't make</p> <p>14 the diagnosis of addiction in the absence of a</p> <p>15 clinical history.</p> <p>16 BY MR. CARTER:</p> <p>17 Q. Okay. And that clinical history</p> <p>18 or -- or clinical diagnosis would come from</p> <p>19 other medical professionals, correct?</p> <p>20 A. Right. A psychiatrist or</p> <p>21 somebody -- addiction medicine person.</p> <p>22 Q. Okay. Have you ever sat for any</p> <p>23 boards -- any medical licensure boards that you</p> <p>24 did not pass the first time?</p> <p>25 A. No, sir.</p>

<p style="text-align: right;">Page 378</p> <p>1 MR. BADALA: Objection to form.  2 BY MR. CARTER:  3 Q. In the course of your employment  4 history, have you ever received a performance  5 review that resulted in discipline?  6 MR. BADALA: Objection to form.  7 THE WITNESS: Not recently. And not  8 that I can remember.  9 BY MR. CARTER:  10 Q. Okay. What was the subject matter  11 where you were disciplined as a result of a  12 performance review?  13 MR. BADALA: Objection to form.  14 THE WITNESS: I'm sorry. I just  15 said I don't remember any.  16 BY MR. CARTER:  17 Q. You said "not recently," which to  18 me --  19 A. I don't remember any --  20 Q. Oh, okay?  21 A. -- was the follow-up answer.  22 Q. Okay. So you don't reply -- or you  23 don't recall one previously happening where  24 you've lost the details?  25 A. I don't remember one. I mean, you</p>	<p style="text-align: right;">Page 380</p> <p>1 questions about wholesale distributor  2 defendants. I want to ask you about retail  3 pharmacies.  4 Do you have an understanding as to  5 the role retail pharmacies played in the  6 distribution network of prescription opioids?  7 A. I just know that they would be, you  8 know, a point of furnishing prescription  9 opioids. And I don't know if I understand, you  10 know, the retail pharmacy, just is that the  11 direct-to-person distribution or whether they  12 were doing wholesale things. I -- I'm a little  13 unclear on that.  14 Q. Do you who the retail pharmacy  15 defendants are in this case?  16 A. I don't want to be certain. I  17 believe Wal-Mart, CVS. And there may be  18 another. I just don't remember.  19 Q. Have you ever initiated contact with  20 Wal-Mart, CVS or any retail pharmacy --  21 MR. BADALA: Objection to form.  22 BY MR. CARTER:  23 Q. -- -- related to Cuyahoga County  24 opioid issues?  25 A. Myself personally, no, I have not.</p>
<p style="text-align: right;">Page 379</p> <p>1 know, as a kid all kinds of thing happen.  2 But --  3 Q. And I'm --  4 A. I'd have to say I don't remember. I  5 was a pretty good boy.  6 Q. And I'm not asking about your  7 nonprofessional performance reviews.  8 I'm talking about, on the job as a  9 licensed physician, and have you receive a  10 performance review that resulted in  11 performance?  12 A. No.  13 MR. BADALA: Objection to form.  14 BY MR. CARTER:  15 Q. Has anyone --  16 A. Never.  17 Q. -- ever asked for your resignation?  18 A. No, sir.  19 Q. Okay.  20 A. I mean I get calls from the public  21 that aren't always hospitable, and they think I  22 should, you know, pack my bags and leave. But  23 in terms of a chain of command, no, no one's  24 ever asked me to resign.  25 Q. All right. You were asked some</p>	<p style="text-align: right;">Page 381</p> <p>1 Q. Okay. Do you know whether any of  2 the retail pharmacies have ever generated a  3 prescription for an opioid medication?  4 A. I have to think they did, but I  5 don't have that data.  6 Q. So have they ever written a  7 prescription?  8 A. Oh, written a prescription. Only a  9 physician can write that prescription. So I  10 don't know, you know, if there's any physicians  11 on staff at some of them. I don't know that  12 for certain. You know, the -- the minute  13 clinic or those things aren't usually  14 physicians. So I don't know if they ever wrote  15 prescriptions.  16 Q. Do you know whether any of the  17 retail pharmacy defendants in this case ever  18 filled a prescription that wasn't written by a  19 DEA-registered physician?  20 A. I don't know.  21 Q. Okay. Sitting here today, have you  22 concluded that any Cuyahoga County -- any  23 specific Cuyahoga County resident's death is  24 attributable to the conduct of a specific  25 defendant?</p>

<p style="text-align: right;">Page 382</p> <p>1 A. I think, you know, it's, from my 2 perspective, a look at the aggregate and how we 3 got to a point where there was an oversupply 4 and an overprescribing. 5 If you want me to go back and sort 6 of try to point to one individual and say that 7 links back to this defendant, I'm not prepared 8 to do that. It might be possible, but I can't 9 do that today. 10 Q. Sitting here today, you haven't done 11 that analysis, correct? 12 A. I haven't done that on a specific 13 case basis, no. 14 Q. Okay. So in -- in response to the 15 question can you today connect any specific 16 Cuyahoga County resident's death to a specific 17 defendant in this case -- 18 MR. BADALA: Objection. 19 BY MR. CARTER: 20 Q. -- what's the answer to that? 21 MR. BADALA: Objection to form. 22 Asked and answered. 23 THE WITNESS: Again, as I say, in a 24 general way I do think that the actions of the 25 defendants are responsible for lots of deaths</p>	<p style="text-align: right;">Page 384</p> <p>1 has borne in terms of additional personnel in 2 the medical staff, toxicology staff, drug 3 chemistry staff, instrumentations that we had 4 to purchase in toxicology and drug chemistry 5 and -- and DNA, those are genuine expenses that 6 we had. 7 And I do think they're referable 8 back to the defendants in aggregate, though I 9 wouldn't say I can tell you this was, you know, 10 this part or this was this part. 11 In aggregate, I can say with 12 confidence I think that the actions of the 13 defendants are what prompted us to have to do 14 these things. 15 Q. Okay. So you -- have that opinion 16 you just expressed in the aggregate; you don't 17 -- you haven't connected a specific line item 18 expense to a specific defendant, fair? 19 A. I think that's a fair statement. 20 Q. Now, in terms of the expenses that 21 you believe you've incurred in the aggregate, 22 of those things that you mentioned with respect 23 to personnel or additional equipment, have any 24 of those expenses been incurred solely as a 25 result of responding to opioid overdose deaths?</p>
<p style="text-align: right;">Page 383</p> <p>1 in our county. 2 The specific, you know, can I point 3 to this person and that defendant, no, I cannot 4 do that. 5 BY MR. CARTER: 6 Q. Have you -- in the course of 7 exercising your duties in Cuyahoga County, have 8 you ever made a decision, taken any action, 9 instituted any policy based on a public 10 statement from one of the defendants in this 11 case? 12 MR. BADALA: Objection to form. 13 THE WITNESS: I'm not aware of 14 public statements that the defendants have made 15 in this case. So I'd have to say, in that 16 regard, it wasn't -- if I responded to 17 something, it wasn't intentional. 18 BY MR. CARTER: 19 Q. Okay. Sitting here today, can you 20 identify any cost that your office has incurred 21 directly as a result of a particular defendant? 22 A. We incurred the cost as a result of 23 the opioid crisis. And I would say again that 24 opioid crisis is referable back to the 25 defendants. And the expenses that my office</p>	<p style="text-align: right;">Page 385</p> <p>1 A. Yes. 2 Q. Okay. Which ones? 3 A. I can't be exhaustive. You know, we 4 had dramatic rises in case loads. And that 5 started in 2015 when I think we get data that 6 links the, you know, heroin crisis back to the 7 prescribing. We have enough data to I think 8 feel comfortable about that. 9 At that point I'm starting to see, 10 you know, accreditation information from my 11 accrediting body that we are starting to have 12 too many case per physician. At that point I 13 start to lobby for additional staff. 14 And 2016 obviously, with the rise in 15 the number of deaths that we had there, you 16 know, going from 370 up to 666, we were 17 drowning at that point. And I needed 18 additional staff. And we added the two 19 doctors. We added two individuals to our 20 toxicology unit. We added an additional drug 21 chemist to do testing. They all cost, you 22 know, what their salary is. 23 In terms of instrumentation costs, 24 you know, as this crisis has evolved -- and 25 again, I think referable back to the</p>

<p style="text-align: right;">Page 386</p> <p>1 prescription opioids morphing into the heroin 2 phase, morphing into the fentanyl phase and the 3 analogs of fentanyl, it has been incredibly 4 challenging to keep up with the analogs of 5 fentanyl from a testing standpoint. 6 Because these are not drugs that we 7 had encountered before. So identifying them, 8 we had to purchase a new piece of equipment 9 really to do a better job identifying them. 10 And then, you know, because these 11 drugs like a carfentanil are, you know, a 12 hundred times more potent than fentanyl, to try 13 to find those drugs was just a challenge that 14 required, again, methodology. 15 And I can tell you those instruments 16 were hundreds of thousand of dollars. They 17 weren't just, you know, like they went to the, 18 you know, warehouse and they picked something 19 up, you know, for a few hundred bucks or 20 something. They're very sensitive instruments, 21 and they cost a tremendous amount of money. 22 I -- I don't mean to say, you know, 23 this is an exhaustive list. Those are the 24 things I think that really were the most 25 driving expenses that we had that I'm aware of:</p>	<p style="text-align: right;">Page 388</p> <p>1 accreditation to a partial accreditation in, 2 you know, response to case loads we were 3 seeing. 4 So turning that population away, 5 those drug overdoses from the adjacent counties 6 we contract with, that's, you know, about \$1500 7 per case, which we would use for things like 8 the purchase of instrumentation. It would go 9 into a thing called our laboratory fund and our 10 budget. And one of the specific purposes of 11 that laboratory fund was to, you know, upgrade 12 instrumentation and things like that. 13 Q. So -- 14 A. So that's one. I think, you know, 15 we incurred other expenses in terms of body 16 storage. You know, we got to a point where we 17 were very concerned we were going to run out of 18 morgue space because so many people were in our 19 office. 20 And I don't know, you know, if you 21 know that in Montgomery County, which is 22 Dayton, or Summit County, they had to get, you 23 know, state resources, refrigerated trucks, 24 because they had an overflow. 25 We didn't get to that point in</p>
<p style="text-align: right;">Page 387</p> <p>1 Personnel, instrumentation. 2 Q. Sitting here today, is there 3 anything else that you can think of that you 4 would testify your office incurred exclusively 5 as a result of opioid overdoses? 6 MR. BADALA: Objection to form. 7 THE WITNESS: We lost, you know, 8 revenue in my office I think starting in about 9 2015 or '16 because we had to turn cases away 10 from my office from adjacent counties. 11 The corner's traditionally Ohio's 12 kind of functionally regional death 13 investigation system. So a coroner in a Geauga 14 County or Medina County can't afford a system 15 like we have. And, you know, they needed to be 16 able to send cases to us. 17 And because of, again, accreditation 18 burdens that we were starting to see and high 19 case loads, I had to start tell them, you know, 20 "No. You -- I can't do your drug overdose 21 cases anymore. I'm drowning in my own. I'm 22 trying to add staff to get our accreditation 23 back in order." 24 We were still accredited, but we 25 were basically changed from a full</p>	<p style="text-align: right;">Page 389</p> <p>1 Cuyahoga County. We got close on Memorial Day 2 2016. But we're a disaster morgue. So we're 3 supposed to -- when this, you know, the morgue 4 was designed by my predecessor, Dr. Bolrush, we 5 were supposed to be able to accommodate -- you 6 know, granted if it was the World Trade Center, 7 nobody could accommodate that kind of 8 numbers -- but to accommodate a disaster. 9 And we were at capacity. And we 10 went out and purchased additional storage for, 11 you know, that possibility that we might be 12 overwhelmed again like that. 13 Q. So you purchased a mobile unit and 14 never had to utilize it, correct? 15 A. We haven't had to utilize it for 16 storage. 17 Q. You mentioned May of 2016. 18 Do you mean 4th of July weekend 2015 19 when carfentanil arrived? 20 A. No. This was Memorial Day weekend. 21 Q. Okay. So was there an acute issue 22 when carfentanil showed up on the scene? 23 A. Same thing that, you know, we saw -- 24 I think, if you go back to Exhibit 6, you can 25 see that in 2017 carfentanil deaths really went</p>

<p style="text-align: right;">Page 390</p> <p>1 up dramatically. But we never got to the point 2 that I described Memorial Day weekend 2016 3 where we were just -- no room at the inn 4 anymore. 5 Carfentanil certainly stressed us 6 again in our resources. And the number rise 7 is, again, largely driven by that. 8 So what I would say is -- I think 9 what you're talking about, the 4th of July 10 weekend with carfentanil, was 2016. But that 11 was actually down in Akron where they had a 12 number of overdoses in a very short period. 13 Q. And you did not have that same 14 experience at that same time? 15 A. Not at the same time. 16 Q. Okay. In terms of revenue from 17 out-of-county autopsy that are referred to 18 Cuyahoga, does the county make a profit on 19 those? 20 A. I honestly don't think we do. I 21 feel like we have some responsibility do, you 22 know, support death investigation in the state. 23 I don't know that we've ever 24 calculated out, you know, every expense, direct 25 and indirect, that we would glean from that.</p>	<p style="text-align: right;">Page 392</p> <p>1 doesn't do autopsy cases on Sunday -- you know, 2 yes. And we don't do all of them on Monday. 3 So I think we get overwhelmed in that regard. 4 I think the other thing, too, is, 5 you know, we had widenings of turnaround times 6 in our toxicology laboratory, which an 7 indication, you know, we're out of compliance 8 with our accrediting body. So yes, we're 9 overwhelmed there. 10 Over 325 cases -- you know, autopsy 11 cases per physician is another, you know, 12 accrediting gig that we took. And that 13 happened in 2016 as well. 14 BY MR. CARTER: 15 Q. When was the first time that you 16 made a request to the county office for more 17 resources because you weren't able, from your 18 perspective, to carry the load of cases that 19 was before you? 20 A. I'm always asking the county for 21 more resources. I think, you know, in response 22 to some of the things I mentioned -- I don't 23 remember exact dates, but certainly when I saw 24 our 2015 numbers and that we were grazing into 25 -- there's two levels of deficiencies in my</p>
<p style="text-align: right;">Page 391</p> <p>1 I mean but my shoot-from-the-hip 2 answer is, if we're making money on it, it's 3 not very much. 4 Q. And state law regulations actually 5 prohibit making a profit, correct? 6 A. Making a profit on? 7 Q. Off autopsies for your office. 8 A. I'm not aware of that law. I mean 9 it may be a law. I just am not aware of it. 10 Q. In terms of -- you mentioned a 11 couple of times being -- your office being 12 overwhelmed. 13 What was the -- the date or time 14 frame when you were first overwhelmed? 15 MR. BADALA: Objection to form. 16 THE WITNESS: Again, I -- I'm not 17 really sure that I could point to a specific 18 date on the calendar, say "We were overwhelmed 19 there." I can give you instances, you know, 20 like that Memorial Day weekend that I 21 mentioned. 22 You know, have there been instances 23 where we've come into, you know, our autopsy -- 24 or into our agency, done triage and had, you 25 know, 22 cases on a Monday -- our offices</p>	<p style="text-align: right;">Page 393</p> <p>1 accrediting body. 2 Phase 1 is kind of slap on the 3 wrist. Phase 2 is you're losing your -- your 4 full accreditation. 5 In 2015 I started to see phase 1 6 deficiencies. I don't remember if it was at 7 that point that I made the request. Certainly 8 in 2016, when I saw phase 2 deficiencies 9 showing up, I was making that request and very 10 stridently at that point. And, you know, we 11 hired two additional medical staff in response 12 to that. 13 Q. Did you ask for additional -- 14 A. And -- oh, I'm sorry. 15 Q. I'm sorry. 16 A. I just want to say, too, that the 17 other thing that we did was to hire contract 18 physicians. And these were individuals, 19 medical examiners, who we would contract with 20 to provide autopsy service to the county. But 21 they weren't my employees. They were just 22 contractors. 23 Q. Did you ask for additional resources 24 from the county in response to opioid deaths in 25 2011?</p>

<p style="text-align: right;">Page 394</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 THE WITNESS: You know, we were just</p> <p>3 really kind of get aware of the heroin crisis</p> <p>4 in 2011. So I wouldn't think we had made the</p> <p>5 request yet.</p> <p>6 Q. Did you make such a request in 2012?</p> <p>7 A. I don't remember.</p> <p>8 Q. Did you make a -- do you remember</p> <p>9 making any such request prior to 2015 and what</p> <p>10 you described a moment ago?</p> <p>11 A. Can I just look at this? It may</p> <p>12 help me.</p> <p>13 The timelines are a little blurry to</p> <p>14 me, but -- we did add a physician in 2014.</p> <p>15 That would be Dr. Dolenack.</p> <p>16 Q. Was that as a result of opioid</p> <p>17 overdose deaths?</p> <p>18 A. In part, yes.</p> <p>19 Q. Was it exclusively?</p> <p>20 A. I don't remember exactly. But I</p> <p>21 think we were very concerned about this rising</p> <p>22 tide of opiate deaths that we were seeing.</p> <p>23 And part of what we rely on in our</p> <p>24 office is we train future medical examiners.</p> <p>25 We actually have the oldest training program in</p>	<p style="text-align: right;">Page 396</p> <p>1 you know, this is going to be the cocaine one,</p> <p>2 and this will be the opioid one.</p> <p>3 We just have to do our best to sort</p> <p>4 that out afterwards. But, you know, the number</p> <p>5 of deaths that we have with cocaine is a cost</p> <p>6 to the office.</p> <p>7 And I think, as I made -- tried to</p> <p>8 make clear earlier in my testimony, the number</p> <p>9 hasn't changed in terms of just cocaine. It</p> <p>10 was pull up in 2016 and '17 by mixtures with</p> <p>11 fentanyl, which again I attribute to the opioid</p> <p>12 crisis, not cocaine changing dramatically.</p> <p>13 Q. And we're in the home stretch. So</p> <p>14 if you could do your best to try to respond to</p> <p>15 the question. Mine was just do you have costs</p> <p>16 from cocaine. So I think you've answered that,</p> <p>17 at least initially.</p> <p>18 Let me ask this question: Does the</p> <p>19 cost for inviting overdose deaths in your</p> <p>20 office vary by substance?</p> <p>21 A. I -- I can't give you -- I can give</p> <p>22 you a "yes" and "no." Then if I can expand a</p> <p>23 little bit on that.</p> <p>24 Q. Well, let me ask it this way. And</p> <p>25 then, if you still need to expand, you can.</p>
<p style="text-align: right;">Page 395</p> <p>1 the country for that. And, you know, they can</p> <p>2 come and do work. They're not a consistent</p> <p>3 thing.</p> <p>4 For example, this year we don't have</p> <p>5 any -- be -- they're fellows. This is what I</p> <p>6 did when I did my training in New York City.</p> <p>7 We don't have anybody this year.</p> <p>8 We, you know, have two the year</p> <p>9 before. Usually we have one, no more than two.</p> <p>10 And, you know, they're a great help when</p> <p>11 they're there.</p> <p>12 But I remember in 2014, when I was</p> <p>13 talking about getting another physician, that,</p> <p>14 you know, I -- I -- I made that clear that, you</p> <p>15 know, we have an increasing caseload because of</p> <p>16 the crisis, and this is not something we can</p> <p>17 consistently rely on as a, you know, help for</p> <p>18 this because there may be years we don't have</p> <p>19 anybody, like this year.</p> <p>20 Q. Does your office incur costs in</p> <p>21 terms of money and resources as a result of</p> <p>22 cocaine overdoses?</p> <p>23 A. I mean we're investigating cocaine</p> <p>24 deaths. So autopsy work there would be a cost.</p> <p>25 I don't think we go into it thinking this is --</p>	<p style="text-align: right;">Page 397</p> <p>1 Sitting here today, can you give me</p> <p>2 a rank order in terms of heroin versus cocaine</p> <p>3 versus prescription opioids versus fentanyl in</p> <p>4 terms of which one is -- in terms of what the</p> <p>5 actual cost per investigation is for your</p> <p>6 office?</p> <p>7 Do you know those precise numbers?</p> <p>8 A. I don't --</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 THE WITNESS: I don't think we've</p> <p>11 drilled down to the unit cost per each of those</p> <p>12 tests. You know, some of these things are</p> <p>13 going to be panels that we'll do screens on.</p> <p>14 Where I would really say we bore an</p> <p>15 additional cost above and beyond kind of</p> <p>16 routine testing were with the analogs of</p> <p>17 fentanyl. Because we had a find standards for</p> <p>18 them, which in many cases weren't even</p> <p>19 available. We had to upgrade instrumentation.</p> <p>20 And again, that would be kind of the unit cost</p> <p>21 I can't provide.</p> <p>22 But I would say that, you know, it</p> <p>23 wasn't trivial with the expense of those</p> <p>24 instruments, that we needed to do a better job</p> <p>25 analyzing them.</p>

<p style="text-align: right;">Page 398</p> <p>1 BY MR. CARTER:</p> <p>2 Q. I want to follow up on one of the</p> <p>3 quest -- one of the questions from last week.</p> <p>4 I asked you about a statement you made before</p> <p>5 congress in terms of character --</p> <p>6 characterizing the supply into the County of</p> <p>7 fentanyl from China and Mexico, that it could</p> <p>8 essentially be considered an act of terrorism.</p> <p>9 Do you recall that testimony to</p> <p>10 congress?</p> <p>11 A. I recall the testimony --</p> <p>12 Q. Okay.</p> <p>13 A. -- to congress.</p> <p>14 Q. And you indicated yesterday that</p> <p>15 that was not -- you wouldn't think it was --</p> <p>16 or -- I said yesterday.</p> <p>17 You indicated last week that you</p> <p>18 didn't think it was fair that the county would</p> <p>19 adopt that as an official position. So leave</p> <p>20 the county out it because this is your</p> <p>21 individual deposition.</p> <p>22 Do you stand by that</p> <p>23 characterization today in your personal view?</p> <p>24 A. If I take a definition of</p> <p>25 "terrorism" as the introduction of an agent</p>	<p style="text-align: right;">Page 400</p> <p>1 didn't happen. I just don't remember it.</p> <p>2 Q. Do you recall testifying that, for</p> <p>3 the year 2012 to 2013, that a quarter of the</p> <p>4 overdose deaths that you saw were the result of</p> <p>5 doctor shopping and that mandatory use of OARRS</p> <p>6 by physicians prior to any pain medication</p> <p>7 prescription would eliminate that possibility</p> <p>8 and that that simple step of making it</p> <p>9 mandatory could save up to 50 lives a year in</p> <p>10 Cuyahoga County alone?</p> <p>11 Do you recall that testimony?</p> <p>12 MR. BADALA: Objection to form.</p> <p>13 THE WITNESS: I don't remember the</p> <p>14 specific testimony. If I'm in the same time</p> <p>15 frame, actually, our first data on doctor</p> <p>16 shopping would have been in 2013. And that was</p> <p>17 36 percent, so not 25 percent. So I'm thinking</p> <p>18 the testimony must have been later. It</p> <p>19 subsequently has gone down to about 20 to 25</p> <p>20 percent.</p> <p>21 And -- yeah. I -- I don't remember</p> <p>22 the specifics of the testimony. I did</p> <p>23 advocate, you know, within our task forces</p> <p>24 that, you know, mandatory checks on OARRS prior</p> <p>25 to prescribing would eliminate the potential</p>
<p style="text-align: right;">Page 399</p> <p>1 that is harming the citizens of another</p> <p>2 country, yes, I stand by that statement.</p> <p>3 Q. Okay. And is that the definition</p> <p>4 that you were using?</p> <p>5 A. That's what I meant to say when I</p> <p>6 made that statement.</p> <p>7 Q. Okay.</p> <p>8 A. The drugs that were coming from</p> <p>9 China, in large measure -- I can't say every</p> <p>10 fentanyl drug that came here was from China.</p> <p>11 But we -- you know, based on my discussions</p> <p>12 with law enforcement, that was a major source.</p> <p>13 And yes, those drugs were killing a</p> <p>14 lot of people in our community. And, you know,</p> <p>15 it's not a big stretch to me to see that, you</p> <p>16 know, in the context of flying an airplane into</p> <p>17 a building and killing citizens here too.</p> <p>18 Q. You were asked to testify in an Ohio</p> <p>19 legislative proceeding relative to the change</p> <p>20 in OARRS regulation.</p> <p>21 Do you recall testifying in that</p> <p>22 capacity?</p> <p>23 A. I remember testifying about Naloxone</p> <p>24 with the joint Ohio House and Senate. I don't</p> <p>25 remember OARRS testimony. I'm not saying it</p>	<p style="text-align: right;">Page 401</p> <p>1 for diversion through the doctor shopping</p> <p>2 route.</p> <p>3 BY MR. CARTER:</p> <p>4 Q. If you testified in front of the</p> <p>5 state legislature advocating for the -- the</p> <p>6 mandatory requirement of physicians checking</p> <p>7 OARRS before writing a prescription, you would</p> <p>8 have been accurate and truthful in that</p> <p>9 context, correct?</p> <p>10 A. I would hope to be. Sure.</p> <p>11 Q. Okay. And what about the view that</p> <p>12 making mandatory use of OARRS prior to a pain</p> <p>13 medication prescription on the part of</p> <p>14 physicians?</p> <p>15 Do you think that making that</p> <p>16 mandatory would eliminate the possibility of</p> <p>17 doctor shopping and could save up to 50 lives</p> <p>18 per year in Cuyahoga County?</p> <p>19 A. I think that the mandatory checks on</p> <p>20 OARRS would reduce doctor shopping. You know,</p> <p>21 where the number came from, I don't remember.</p> <p>22 If this was testimony in Columbus, I don't even</p> <p>23 remember going to Columbus.</p> <p>24 There was a group of legislators who</p> <p>25 came to -- I believe it was Medina County. I</p>

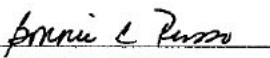
<p style="text-align: right;">Page 402</p> <p>1 remember talking to them. But the memory I</p> <p>2 have of that was that it was more about</p> <p>3 Naloxone. I -- I don't remember the specific.</p> <p>4 But, you know, as I sit here today,</p> <p>5 I think that, when the prescribers of opioids</p> <p>6 would be required to check OARRS before</p> <p>7 prescribing, yeah, that's an excellent idea.</p> <p>8 I would say, you know, how many</p> <p>9 lives it could have saved at that time isn't</p> <p>10 going to be the same necessarily as how many it</p> <p>11 could save today. But it would have saved</p> <p>12 potentially, you know, diversion of drugs into</p> <p>13 this area.</p> <p>14 Q. And so whatever the number was, if</p> <p>15 you provided a number under oath, you could</p> <p>16 stand by that in terms of making mandatory</p> <p>17 checking of OARRS before writing a</p> <p>18 prescription, that that -- that change alone</p> <p>19 could prevent deaths in some number?</p> <p>20 A. Again, I -- you know, I don't</p> <p>21 remember testifying, especially under oath to a</p> <p>22 legislative body. I remember, you know,</p> <p>23 talking to a group of House and Senate people</p> <p>24 from Ohio. But I don't remember that specific</p> <p>25 testimony.</p>	<p style="text-align: right;">Page 404</p> <p>1 BY MR. CARTER:</p> <p>2 Q. You were asked some questions</p> <p>3 earlier by Mr. Boranian about certifying the</p> <p>4 cause and manner of death and what that</p> <p>5 certification means.</p> <p>6 I want to follow up in that area.</p> <p>7 Okay?</p> <p>8 A. Sure.</p> <p>9 Q. Is it important -- is the function</p> <p>10 that your office performs in certifying cause</p> <p>11 and manner of death, do you think that's</p> <p>12 important to the public?</p> <p>13 A. On so many levels, absolutely. Yes.</p> <p>14 Q. And you told Mr. Boranian that those</p> <p>15 ultimate conclusions that are certified, that's</p> <p>16 the result of a medical opinion produced from</p> <p>17 the exercise of medical judgment, correct?</p> <p>18 A. That's true for any death</p> <p>19 certificate, my office included, yes.</p> <p>20 Q. Okay. So in the course of your</p> <p>21 entire work in Cuyahoga County, have you ever</p> <p>22 certified as the cause and manner of death, in</p> <p>23 an overdose case where the person used heroin</p> <p>24 or illicit fentanyl or cocaine but did not have</p> <p>25 any toxicology or evidence or OARRS profile of</p>
<p style="text-align: right;">Page 403</p> <p>1 I would say that the mandatory check</p> <p>2 of OARRS prior to prescribing, in the face of</p> <p>3 doctor shopping as we see it, and continue to</p> <p>4 see it, actually, would, you know, prevent</p> <p>5 diversion and could save lives.</p> <p>6 I -- I -- I don't know where I</p> <p>7 necessarily could have gotten that number. But</p> <p>8 it may have been a percentage of individuals</p> <p>9 who may not have become addicted. I don't</p> <p>10 remember what went into the calculation.</p> <p>11 But if I said a number, I'd have to</p> <p>12 go back and revisit how I came to that number.</p> <p>13 But I would tend to stand by, you know, those</p> <p>14 things. I don't try to pull them out of the</p> <p>15 air.</p> <p>16 Q. So -- so putting aside the context</p> <p>17 and the testimony, let me just ask you the</p> <p>18 question.</p> <p>19 Do you think the mandatory</p> <p>20 requirement prior to a prescription by itself</p> <p>21 would save lives?</p> <p>22 A. Yes.</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 THE WITNESS: I think the state does</p> <p>25 too. We enacted that in April of 2015.</p>	<p style="text-align: right;">Page 405</p> <p>1 prescription drug use -- so in that type of</p> <p>2 situation, have you ever certified as a cause</p> <p>3 or manner of death that their overdose death</p> <p>4 was due to or referable to or arising out of a</p> <p>5 prescription opioid epidemic?</p> <p>6 MR. BADALA: Objection to form.</p> <p>7 THE WITNESS: That one you lost me</p> <p>8 on.</p> <p>9 BY MR. CARTER:</p> <p>10 Q. Sure.</p> <p>11 Have you ever certified a cocaine</p> <p>12 death where there's no prescription opioid use</p> <p>13 in your investigation -- have you ever</p> <p>14 certified a case like that and -- and noted on</p> <p>15 the death certificate that that cocaine</p> <p>16 overdose was referable to the opioid epidemic?</p> <p>17 A. No.</p> <p>18 Q. Have you ever certified in such a</p> <p>19 case that the cocaine overdose was directly</p> <p>20 linked to the conduct of the defendants in this</p> <p>21 case?</p> <p>22 A. Just so we're clear, we're talking</p> <p>23 about cocaine in the absence of any opioid, be</p> <p>24 it --</p> <p>25 Q. Correct.</p>

<p style="text-align: right;">Page 406</p> <p>1 A. -- prescription opioid, heroin, 2 fentanyl?</p> <p>3 Q. So cocaine in the absence of any 4 prescription opioid.</p> <p>5 So cocaine plus illicit fentanyl, 6 cocaine plus heroin, cocaine by itself, cocaine 7 plus any substance that is not a prescription 8 opioid.</p> <p>9 In any of those cases, have you ever 10 certified as a cause or manner of death that 11 that overdose death was caused as a result of 12 the conduct of the defendants in this case?</p> <p>13 A. That's not really what a death 14 certificate's function is. There's no place to 15 check that.</p> <p>16 So the answer, I mean shortly, is 17 no. We don't put that information on a death 18 certificate. But that's not the function of a 19 death certificate.</p> <p>20 So I'm not aware of any jurisdiction 21 that would do something like that. We 22 certainly don't because I don't think that's a 23 good practice.</p> <p>24 Q. So the function of the death 25 certificate is to arrive at the official</p>	<p style="text-align: right;">Page 408</p> <p>1 addicted to heroin after they had developed 2 addiction to opioid pain reliever, I would 3 still link that back to the opioid pain 4 relievers, but I'm not going write "opioid pain 5 reliever" on the death certificate. Because 6 what my toxicology shows me was terminal event, 7 which is what I am using to certify cause of 8 death, and that would be heroin and cocaine.</p> <p>9 BY MR. CARTER:</p> <p>10 Q. Okay. If you believed, using your 11 medical, judgment that medically more likely 12 than not one of those deaths was directly 13 caused by the opioid epidemic or the conduct of 14 a defendant in this case, would you not have an 15 obligation, as someone executing your duties 16 under office, to include what you believed to 17 be the -- you know, the actual medical cause 18 and manner of death?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 THE WITNESS: I think you're making 21 a mistake about what a cause of death is. 22 It's -- you know, by definition it's an injury 23 or disease which, in a natural, unbroken 24 sequence, produces death and in whose absence 25 death would not have occurred.</p>
<p style="text-align: right;">Page 407</p> <p>1 medical opinion as to the cause and manner of 2 death, correct?</p> <p>3 A. Right. We're going to enter a cause 4 and manner of death on a death certificate and 5 then other information, potentially around an 6 injury, if that's an unnatural cause of death.</p> <p>7 Q. And so, if you thought that a 8 cocaine overdose, where there's no evidence of 9 prescription opioid use in that person's 10 history, if you nonetheless thought as a 11 medical opinion that that death was 12 attributable to or directly linked to an 13 underlying prescription opioid epidemic, as a 14 medical matter, you would include that on the 15 death certificate, would you not?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 THE WITNESS: No. Because if the 18 drug isn't present, it's not relevant to the 19 terminal cause of death. But that doesn't in 20 any way mean that it's not related to the 21 prescription opioid epidemic.</p> <p>22 If I had somebody who, for example, 23 you know, died of cocaine and heroin overdose, 24 and they were one of those, you know, 25 substantial percentage of people who became</p>	<p style="text-align: right;">Page 409</p> <p>1 So we don't go back and say, you 2 know, two weeks ago, you know, something 3 happened here if it's not relevant to the 4 actual terminal event.</p> <p>5 BY MR. CARTER:</p> <p>6 Q. So in terms of your obligations to 7 execute your office, you are required and you, 8 in fact, do certify the cause and manner of 9 death using your best medical judgment for all 10 of the cases before you, correct?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 THE WITNESS: I will certify the 13 cases I'm directly responsible for. And I 14 review the cases that go through the office.</p> <p>15 BY MR. CARTER:</p> <p>16 Q. Okay. And --</p> <p>17 MR. BADALA: And, Counsel, before 18 you start your next question, do we've seven 19 hours there? I'm sorry.</p> <p>20 MR. CARTER: No. I still have two 21 more minutes.</p> <p>22 THE VIDEOGRAPHER: Two more minutes.</p> <p>23 MR. BADALA: Two more minutes?</p> <p>24 MR. CARTER: Yeah.</p> <p>25 MR. BADALA: Okay. I just wanted to</p>

<p style="text-align: right;">Page 410</p> <p>1 double-check.</p> <p>2 MR. CARTER: So -- and now I guess</p> <p>3 I -- I have two more minutes after your</p> <p>4 discussion.</p> <p>5 BY MR. CARTER:</p> <p>6 Q. So in the course of those -- in</p> <p>7 executing your duty, have you ever written on</p> <p>8 any death certificate that the cause or manner</p> <p>9 of death was an underlying prescription opioid</p> <p>10 epidemic?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 BY MR. CARTER:</p> <p>13 Q. Have you ever done that when</p> <p>14 executing your day job?</p> <p>15 A. It's, again, not the function of me</p> <p>16 as a death certifier. It's a function I would</p> <p>17 participate in as a public health official.</p> <p>18 But it's not the way a death certificate would</p> <p>19 be used in Ohio or any other jurisdiction I</p> <p>20 worked in.</p> <p>21 Q. Prior to this lawsuit, have you ever</p> <p>22 broken down the number of cocaine overdose</p> <p>23 deaths and said which ones or what percentage</p> <p>24 of those were directly attributable or</p> <p>25 referable to an opioid epidemic?</p>	<p style="text-align: right;">Page 412</p> <p>1 community when we saw the infiltration of the</p> <p>2 cocaine market with fentanyl. You know, I know</p> <p>3 in the task forces we've offered, you know, an</p> <p>4 analysis of the death data to say, "We're</p> <p>5 seeing this rise in cocaine. We're seeing this</p> <p>6 rise in heroin. But when we drill into the</p> <p>7 data, that rise is related to fentanyl."</p> <p>8 And as I said, the drugs that we</p> <p>9 see, you know, now, the heroin before and the</p> <p>10 fentanyl, are a continuum of the prescription</p> <p>11 pain relievers. And I think, you know, we've</p> <p>12 generated independent data. And there's, you</p> <p>13 know, a consensus, I think, from, you know, CDC</p> <p>14 about the phases of the opioid crisis.</p> <p>15 So I -- I wouldn't say, you know,</p> <p>16 that here's the prescription opioid crisis,</p> <p>17 here's the heroin. It's the opioid crisis, and</p> <p>18 it has different phases.</p> <p>19 MR. CARTER: Thank you.</p> <p>20 I'm out of time.</p> <p>21 THE WITNESS: Thanks.</p> <p>22 THE VIDEOGRAPHER: We are going off</p> <p>23 the record at 6:22 p.m.</p> <p>24 This concludes today's testimony of</p> <p>25 --</p>
<p style="text-align: right;">Page 411</p> <p>1 Have you ever made such a public</p> <p>2 comment?</p> <p>3 A. I know time's running out.</p> <p>4 If I understand your question, we're</p> <p>5 talking about cocaine overdoses, potentially</p> <p>6 mixtures of cocaine with other drugs?</p> <p>7 Q. Cocaine cases where there's no</p> <p>8 evidence of prescription opioid use.</p> <p>9 Have you ever -- you said that you</p> <p>10 -- you have two types of statements. You have</p> <p>11 the death certificate certifications, and then</p> <p>12 you have other things where you make policy</p> <p>13 statements. So I'm asking about the policy</p> <p>14 statements.</p> <p>15 Have you ever told the public, prior</p> <p>16 to this lawsuit, that some subset of cocaine</p> <p>17 cases that did not involve prescription</p> <p>18 opioids, that some subset was directly</p> <p>19 relatable to the prescription opioid epidemic?</p> <p>20 MR. BADALA: Objection to form.</p> <p>21 THE WITNESS: It's the opioid</p> <p>22 epidemic. So it would take in those three</p> <p>23 phases that I mentioned.</p> <p>24 And yes, we've made statements. We</p> <p>25 made statements to the African-American</p>	<p style="text-align: right;">Page 413</p> <p>1 MR. BADALA: No, no. It doesn't</p> <p>2 conclude. We're going to have some questions.</p> <p>3 THE VIDEOGRAPHER: Oh. I'm --</p> <p>4 MR. BADALA: Yeah.</p> <p>5 THE VIDEOGRAPHER: -- sorry,</p> <p>6 Counsel.</p> <p>7 MR. BADALA: Yeah. I wanted to make</p> <p>8 sure we --</p> <p>9 THE WITNESS: Are we breaking, or</p> <p>10 not?</p> <p>11 MR. BADALA: We could take just a</p> <p>12 quick two-minute break.</p> <p>13 THE WITNESS: Yeah.</p> <p>14 THE VIDEOGRAPHER: We are going off</p> <p>15 the record at 6:22.</p> <p>16 (A short recess was taken.)</p> <p>17 THE VIDEOGRAPHER: We are going back</p> <p>18 on the record.</p> <p>19 The time is 6:28.</p> <p>20 You may proceed, Counsel.</p> <p>21 EXAMINATION BY COUNSEL FOR PLAINTIFF</p> <p>22 BY MR. BADALA:</p> <p>23 Q. Dr. Gilson, you were asked some</p> <p>24 questions earlier about Carole Rendon.</p> <p>25 Do you recall that?</p>

<p style="text-align: right;">Page 414</p> <p>1 A. Yes, I do.</p> <p>2 Q. Doctor, I want to preface this</p> <p>3 question by saying I don't want you to disclose</p> <p>4 any confidences, if there were any.</p> <p>5 However, at any point in time while</p> <p>6 Ms. Rendon was at the U.S. Attorney's Office,</p> <p>7 did you have confidential conversations with</p> <p>8 Ms. Rendon related to prosecutions and/or</p> <p>9 strategy?</p> <p>10 MS. HARTMAN: Objection.</p> <p>11 THE WITNESS: Can I answer?</p> <p>12 MR. BADALA: Yes.</p> <p>13 THE WITNESS: Yes. I felt we were</p> <p>14 sharing things that I wouldn't have shared in a</p> <p>15 general forum.</p> <p>16 BY MR. BADALA:</p> <p>17 Q. Now, earlier you were asked some</p> <p>18 questions about the Burrage case.</p> <p>19 Do you recall that?</p> <p>20 A. Yes.</p> <p>21 Q. And you were asked some questions</p> <p>22 about a subsequent article that you copublished</p> <p>23 with Ms. Rendon?</p> <p>24 A. We coauthored, yes.</p> <p>25 Q. Was everything that you discussed</p>	<p style="text-align: right;">Page 416</p> <p>1 Dr. Gilson, what was your reaction</p> <p>2 when you heard Ms. Rendon was representing a</p> <p>3 defendant in this litigation?</p> <p>4 A. I like Carole Rendon. I enjoyed the</p> <p>5 time we worked together when she was the U.S.</p> <p>6 Attorney and deputy U.S. Attorney. And I just</p> <p>7 have to say I was very disappointed when I saw</p> <p>8 that. I -- it was disappointment.</p> <p>9 Q. Now, Dr. Gilson, earlier you were</p> <p>10 asked a series of questions about potentially</p> <p>11 responsible parties in this litigation.</p> <p>12 Do you recall that?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Doctor, do you have any reason to</p> <p>15 believe that Cuyahoga County failed to name any</p> <p>16 parties as defendants that you believed to be</p> <p>17 responsible for the opioid epidemic?</p> <p>18 MR. CARTER: Objection to the form.</p> <p>19 THE WITNESS: I think Cuyahoga</p> <p>20 County named the appropriate defendants in this</p> <p>21 litigation.</p> <p>22 When we spoke earlier, we talked</p> <p>23 about drug cartels and pill mills and things</p> <p>24 like that. And I would say that, you know,</p> <p>25 those are criminal operations and certainly</p>
<p style="text-align: right;">Page 415</p> <p>1 with Ms. Rendon included in that article?</p> <p>2 MR. CARTER: Objection to the</p> <p>3 form.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. BADALA:</p> <p>6 Q. Do you know if Ms. Rendon is</p> <p>7 currently representing any defendants in this</p> <p>8 litigation?</p> <p>9 A. Yes, I do.</p> <p>10 Q. What was your reaction when you</p> <p>11 heard that Ms. Rendon was representing a</p> <p>12 defendant in this litigation?</p> <p>13 MS. HARTMAN: Objection.</p> <p>14 THE REPORTER: I'm sorry. Who said</p> <p>15 that?</p> <p>16 MS. HARTMAN: Objection.</p> <p>17 THE REPORTER: I just wanted to see</p> <p>18 who it was.</p> <p>19 MS. HARTMAN: Ruth.</p> <p>20 BY MR. BADALA:</p> <p>21 Q. You can answer.</p> <p>22 Do you want me to repeat the</p> <p>23 question?</p> <p>24 A. If you would, please. Yeah.</p> <p>25 Q. Sure.</p>	<p style="text-align: right;">Page 417</p> <p>1 should be, you know, deplored and punished.</p> <p>2 But ultimately, it -- it's my belief</p> <p>3 that the actions of the defendants created a</p> <p>4 climate in which those individuals took</p> <p>5 advantage of the county as well.</p> <p>6 MR. BADALA: I have no further</p> <p>7 questions.</p> <p>8 MR. HARTMAN: I also have some</p> <p>9 recross. So --</p> <p>10 MR. BADALA: How much time did we</p> <p>11 just have on there?</p> <p>12 MR. CARTER: Three minutes and two</p> <p>13 seconds.</p> <p>14 MR. BADALA: Okay.</p> <p>15 MR. HARTMAN: I want to take a</p> <p>16 two-minute break and then come back with the</p> <p>17 recross.</p> <p>18 MR. BADALA: You want to go off the</p> <p>19 record? Is that what you're saying?</p> <p>20 MS. HARTMAN: Yeah. We'll go off</p> <p>21 the record.</p> <p>22 MR. BADALA: Okay.</p> <p>23 MS. HARTMAN: Did you say it was</p> <p>24 three minutes?</p> <p>25 MR. BADALA: Two seconds.</p>

<p style="text-align: right;">Page 418</p> <p>1 MS. HARTMAN: Okay.</p> <p>2 THE VIDEOGRAPHER: We are going off</p> <p>3 the record.</p> <p>4 The time is 6:31.</p> <p>5 (A short recess was taken.)</p> <p>6 THE VIDEOGRAPHER: We are back on</p> <p>7 the record.</p> <p>8 The time is 6:43.</p> <p>9 You may proceed, Counsel.</p> <p>10 EXAMINATION BY COUNSEL FOR</p> <p>11 ENDO HEALTH SOLUTIONS, INC, AND</p> <p>12 ENDO PHARMACEUTICALS, INC,</p> <p>13 BY MS. HARTMAN:</p> <p>14 Q. Good afternoon -- or rather evening,</p> <p>15 Dr. Gilson.</p> <p>16 A. Evening.</p> <p>17 Q. My name is Ruth Hartman. And I am</p> <p>18 here on behalf of the Endo defendants.</p> <p>19 I just have a few --</p> <p>20 A. Good afternoon -- good evening.</p> <p>21 Q. Good evening.</p> <p>22 I have a few follow-up questions.</p> <p>23 You just testified that you shared</p> <p>24 confidential information and strategy related</p> <p>25 to prosecutions with Ms. Rendon; is that</p>	<p style="text-align: right;">Page 420</p> <p>1 tracking these things, I was going to be the</p> <p>2 person who was going to be called.</p> <p>3 Q. Okay. So -- but -- but this never</p> <p>4 came to fruition; is that correct?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 THE WITNESS: No. There have been a</p> <p>7 couple of cases I have had those discussions.</p> <p>8 But none of them --</p> <p>9 MS. HARTMAN: Okay.</p> <p>10 THE WITNESS: -- have actually gone</p> <p>11 to trial.</p> <p>12 BY MS. HARTMAN:</p> <p>13 Q. Okay. Was the information you</p> <p>14 shared with Ms. Rendon that you suggested was</p> <p>15 confidential in the context of the U.S.</p> <p>16 Attorney Heroin and Opiate Task Force?</p> <p>17 A. You mean the task force meetings?</p> <p>18 Q. Uh-huh.</p> <p>19 A. No. This would have been more</p> <p>20 discussion I had with her.</p> <p>21 Q. About the expert witness position?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 THE WITNESS: I misrecall your</p> <p>24 question.</p> <p>25 BY MS. HARTMAN:</p>
<p style="text-align: right;">Page 419</p> <p>1 correct?</p> <p>2 A. Yes, I did.</p> <p>3 Q. Did Ms. Rendon compel the sharing of</p> <p>4 this information that you shared with her?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 THE WITNESS: No. I think we were</p> <p>7 discussing it in the context of she's the</p> <p>8 federal prosecution, and I'm the person who</p> <p>9 potentially was going to serve as an expert</p> <p>10 witness in some of the death specification</p> <p>11 cases related to drug overdoses.</p> <p>12 BY MS. HARTMAN:</p> <p>13 Q. Oh, okay.</p> <p>14 Did you serve as that expert witness</p> <p>15 related to drug overdoses?</p> <p>16 A. We were slated to do a case. I</p> <p>17 forget who the U.S. Attorneys were.</p> <p>18 Q. Uh-huh.</p> <p>19 A. But it pled before it went.</p> <p>20 Q. Okay.</p> <p>21 A. But I was going to testify in my</p> <p>22 capacity as the medical examiner who reviewed</p> <p>23 the data. I didn't actually do that autopsy.</p> <p>24 But just, you know, given how much</p> <p>25 effort I was putting into keeping up and</p>	<p style="text-align: right;">Page 421</p> <p>1 Q. All right. So what was the context</p> <p>2 of this confidential information?</p> <p>3 MR. BADALA: I'm just going to</p> <p>4 instruct you, if it's confidential, not to</p> <p>5 disclose it.</p> <p>6 THE WITNESS: I -- I mean some of it</p> <p>7 was about strategies for prosecutions. I don't</p> <p>8 want to disclose those, actually.</p> <p>9 BY MS. HARTMAN:</p> <p>10 Q. Okay. So -- well, can you describe</p> <p>11 exactly the nature of the confidential</p> <p>12 information you claimed to have shared?</p> <p>13 MR. BADALA: Again, objection.</p> <p>14 Asked and answered.</p> <p>15 But I'm going to instruct you not to</p> <p>16 disclose what the confidential information was.</p> <p>17 THE WITNESS: I mean and this may</p> <p>18 bear with future prosecutions. I don't want to</p> <p>19 answer that question.</p> <p>20 BY MS. HARTMAN:</p> <p>21 Q. Well, were the prosecutions you</p> <p>22 discussed against any individuals in this case?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 Again, I'm going to instruct you not</p> <p>25 to disclose any confidential information.</p>

<p style="text-align: right;">Page 422</p> <p>1 BY MS. HARTMAN:</p> <p>2 Q. You can answer "yes" or "no" without</p> <p>3 disclosing any information.</p> <p>4 MR. BADALA: Well, that would be</p> <p>5 disclosing if there was.</p> <p>6 So I'm going to instruct you not to</p> <p>7 respond -- not to answer that question.</p> <p>8 BY MS. HARTMAN:</p> <p>9 Q. But you're not aware of any incident</p> <p>10 when the U.S. Attorney's Office pursued any of</p> <p>11 the defendants this is this case; is that</p> <p>12 correct?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 THE WITNESS: I don't know of any</p> <p>15 case that they brought against the</p> <p>16 pharmaceutical companies or the distributors.</p> <p>17 MR. BADALA: And, Counsel --</p> <p>18 BY MS. HARTMAN:</p> <p>19 Q. Or manufacturers?</p> <p>20 MR. BADALA: -- before you start</p> <p>21 your next question, I think we're out of time.</p> <p>22 MS. FLEMMING: We are.</p> <p>23 MR. BADALA: We are. Yeah. You've</p> <p>24 been on for three minutes.</p> <p>25 MS. HARTMAN: Okay.</p>	<p style="text-align: right;">Page 424</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, Bonnie L. Russo, Certified Shorthand</p> <p>4 Reporter, and Notary Public, hereby certify:</p> <p>5 That THOMAS GILSON was duly sworn by</p> <p>6 me, an authorized Notary Public, and that this</p> <p>7 deposition is a true and correct record of the</p> <p>8 testimony given by such witness to the best of</p> <p>9 my knowledge and ability.</p> <p>10 I further certify that I am not related</p> <p>11 to any of the parties to this action and that I</p> <p>12 am in no way interested in the outcome of this</p> <p>13 matter.</p> <p>14 In witness whereof, I have hereunto set</p> <p>15 my hand this day, January 25, 2019.</p> <p>16</p> <p>17 </p> <p>18 Bonnie L. Russo</p> <p>19 Certified Shorthand Reporter</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 423</p> <p>1 THE VIDEOGRAPHER: We are going off</p> <p>2 the record at 6:46 p.m.</p> <p>3 This concludes today's testimony of</p> <p>4 Dr. Thomas Gilson.</p> <p>5 The total number of media units was</p> <p>6 seven and will be retained by Veritext Legal</p> <p>7 Solutions.</p> <p>8 (Whereupon, the proceeding was</p> <p>9 concluded at 6:47 p.m.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 425</p> <p>1 Veritext Legal Solutions</p> <p>2 1100 Superior Ave</p> <p>3 Suite 1820</p> <p>4 Cleveland, Ohio 44114</p> <p>5 Phone: 216-523-1313</p> <p>6 January 25, 2019</p> <p>7 To: Salvatore C Badala, Esq</p> <p>8 Case Name: In Re: National Prescription Opiate Litigation</p> <p>9 Veritext Reference Number: 3196188</p> <p>10 Witness: Thomas Gilson, M D Deposition Date: 1/22/2019</p> <p>11 Dear Sir/Madam:</p> <p>12 Enclosed please find a deposition transcript Please have the witness</p> <p>13 review the transcript and note any changes or corrections on the</p> <p>14 included errata sheet, indicating the page, line number, change, and</p> <p>15 the reason for the change Have the witness' signature notarized and</p> <p>16 forward the completed page(s) back to us at the Production address</p> <p>17 shown</p> <p>18 above, or email to production-midwest@veritext.com</p> <p>19 If the errata is not returned within thirty days of your receipt of</p> <p>20 this letter, the reading and signing will be deemed waived</p> <p>21 Sincerely,</p> <p>22 Production Department</p> <p>23</p> <p>24</p> <p>25 NO NOTARY REQUIRED IN CA</p>

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<p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS</p> <p>2</p> <p>3 ASSIGNMENT REFERENCE NO: 3196188 CASE NAME: In Re: National Prescription Opiate Litigation DATE OF DEPOSITION: 1/22/2019</p> <p>4 WITNESS' NAME: Thomas Gilson, M D 5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me 7 I have made no changes to the testimony as transcribed by the court reporter</p> <p>8</p> <p>9 Date _____ Thomas Gilson, M D 10 Sworn to and subscribed before me, a 11 Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:</p> <p>12 They have read the transcript; 13 They signed the foregoing Sworn Statement; and 14 Their execution of this Statement is of their free act and deed</p> <p>15 I have affixed my name and official seal 16 this _____ day of _____, 20____ 17</p> <p>18 _____ Notary Public 19 _____ Commission Expiration Date</p> <p>20 21 22 23 24 25</p>	<p>1 ERRATA SHEET VERITEXT LEGAL SOLUTIONS MIDWEST</p> <p>2 ASSIGNMENT NO: 1/22/2019</p> <p>3 PAGE/LINE(S) / CHANGE /REASON</p> <p>4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____</p> <p>20 Date _____ Thomas Gilson, M.D. 21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ 22 DAY OF _____, 20____ . 23 _____ Notary Public 24 _____ 25 Commission Expiration Date</p>
<p>Page 427</p> <p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS</p> <p>2</p> <p>3 ASSIGNMENT REFERENCE NO: 3196188 CASE NAME: In Re: National Prescription Opiate Litigation DATE OF DEPOSITION: 1/22/2019</p> <p>4 WITNESS' NAME: Thomas Gilson, M D 5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me 7 I have listed my changes on the attached Errata Sheet, listing page and line numbers as 8 well as the reason(s) for the change(s) 9 I request that these changes be entered as part of the record of my testimony</p> <p>10</p> <p>11 I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my 12 testimony and be incorporated therein</p> <p>13</p> <p>14 Date _____ Thomas Gilson, M D Sworn to and subscribed before me, a 15 Notary Public in and for the State and County, the referenced witness did personally appear 16 and acknowledge that:</p> <p>17 They have read the transcript; They have listed all of their corrections 18 in the appended Errata Sheet; They signed the foregoing Sworn 19 Statement; and Their execution of this Statement is of 20 their free act and deed 21 I have affixed my name and official seal 22 this _____ day of _____, 20____ 23 _____ Notary Public 24 _____ 25 Commission Expiration Date</p>	

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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